

EXHIBIT E

Stephen M. Factor, M.D.

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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - ATLANTIC COUNTY

- - -

IN RE: : CIVIL ACTION
PELVIC MESH/GYNECARE : CASE NO. 291 CT
LITIGATION :
:
: MASTER CASE NO.
: L-6341-10
(GENERAL, GROSS, WICKER):

- - -

- - -

NOVEMBER 27, 2012

- - -

Videotaped deposition of
STEPHEN M. FACTOR, M.D., held at Jacobi
Medical Center, 1400 Pelham Parkway
South, Bronx, New York 10464, commencing
at 2:08 p.m., on the above date, before
Margaret Peoples, a Registered
Professional Reporter.

- - -

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<p>1 A P P E A R A N C E S :</p> <p>2 MAZIE, SLATER, KATZ & FREEMAN, LLC</p> <p>3 BY: DAVID MAZIE, ESQUIRE</p> <p>4 103 Eisenhower Parkway, 2nd Floor</p> <p>5 Roseland, New Jersey 07068</p> <p>6 (973) 228-9898</p> <p>7 Counsel for the Plaintiffs</p> <p>8 BUTLER, SNOW, O'MARA, STEVENS & CANNADA, PLLC</p> <p>9 BY: NILS B. (BURT) SNELL, ESQUIRE</p> <p>10 Suite 400</p> <p>11 500 Office Center Drive</p> <p>12 Fort Washington, Pennsylvania 19034</p> <p>13 (267) 513-1885</p> <p>14 Counsel for the Defendants</p> <p>15</p> <p>16 A L S O P R E S E N T:</p> <p>17 Christopher Campbell, Videographer</p> <p>18 - - -</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1</p> <p>2 DEPOSITION SUPPORT INDEX</p> <p>3</p> <p>4 Direction to Witness Not To Answer</p> <p>5 Page Line Page Line</p> <p>6 None</p> <p>7</p> <p>8</p> <p>9 Request For Production of Documents</p> <p>10 Page Line Page Line</p> <p>11 None</p> <p>12</p> <p>13 Stipulations</p> <p>14 Page Line Page Line</p> <p>15 None</p> <p>16</p> <p>17 Questions Marked</p> <p>18 Page Line Page Line</p> <p>19 None</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1 - - -</p> <p>2 I N D E X</p> <p>3 WITNESS PAGE NO.</p> <p>4 STEPHEN M. FACTOR, M.D.</p> <p>5 By Mr. Mazie 8</p> <p>6</p> <p>7 By Mr. Snell 129</p> <p>8</p> <p>9 - - -</p> <p>10 E X H I B I T S</p> <p>11 NO. DESCRIPTION PAGE NO.</p> <p>12 EXH.1 Pathology Slides 7</p> <p>13</p> <p>14 - - -</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 Reserved for Confidential Designation Index as</p> <p>2 Pursuant to the Protective Order</p> <p>3</p> <p>4 Defendants did not have any Confidential Designations</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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<p>1 Reserved for Confidential Designation Index as</p> <p>2 Pursuant to the Protective Order</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 Butler Snow on behalf of the</p> <p>2 defendants, Ethicon and Johnson &</p> <p>3 Johnson.</p> <p>4 VIDEOGRAPHER: The court</p> <p>5 reporter is Margaret Peoples and</p> <p>6 will now swear in the witness.</p> <p>7 - - -</p> <p>8 STEPHEN M. FACTOR, M.D.,</p> <p>9 after having been duly sworn, was</p> <p>10 examined and testified as follows:</p> <p>11 - - -</p> <p>12 EXAMINATION</p> <p>13 - - -</p> <p>14 BY MR. MAZIE:</p> <p>15 Q. Dr. Factor, my name is David</p> <p>16 Mazie and I represent the plaintiffs in</p> <p>17 two cases in which you are being deposed,</p> <p>18 hopefully at least one of them today.</p> <p>19 Certainly, we will find out from the</p> <p>20 Court whether we will be deposing you on</p> <p>21 the second case.</p> <p>22 How many times have you been</p> <p>23 deposed before?</p> <p>24 A. Many.</p> <p>25 Q. How many is many?</p>
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<p>1 - - -</p> <p>2 (Whereupon, Exhibit 1 was</p> <p>3 marked for identification.)</p> <p>4 - - -</p> <p>5 VIDEOGRAPHER: We are now on</p> <p>6 the record. My name is</p> <p>7 Christopher Campbell. I'm a</p> <p>8 videographer for Golkow</p> <p>9 Technologies. Today's date is</p> <p>10 November 27, 2012 and the time is</p> <p>11 2:08.</p> <p>12 This deposition is being</p> <p>13 held in Bronx, New York, In Re:</p> <p>14 Pelvic Mesh, for the Superior</p> <p>15 Court of New Jersey, Atlantic</p> <p>16 County.</p> <p>17 The deponent is Dr. Stephen</p> <p>18 Factor.</p> <p>19 At this time, will counsel</p> <p>20 please announce their appearances</p> <p>21 for the record?</p> <p>22 MR. MAZIE: David Mazie,</p> <p>23 Mazie, Slater, Katz & Freeman on</p> <p>24 behalf of the plaintiffs.</p> <p>25 MR. SNELL: Burt Snell,</p>	<p>1 A. I don't keep a precise</p> <p>2 count, but somewhere close to 125 to 150</p> <p>3 over the last 30-plus years.</p> <p>4 Q. Over the past 10 years, how</p> <p>5 many times do you think you have been</p> <p>6 deposed?</p> <p>7 A. It's averaged about six to</p> <p>8 eight a year.</p> <p>9 Q. And what percentage of your</p> <p>10 cases in which you have been deposed have</p> <p>11 been on behalf of the defense versus the</p> <p>12 plaintiff?</p> <p>13 A. My breakdown has been about</p> <p>14 85 percent for defense and 15 percent or</p> <p>15 so for plaintiff.</p> <p>16 Q. Have you ever worked in a</p> <p>17 pharmaceutical-type case?</p> <p>18 A. Yes.</p> <p>19 Q. On how many occasions?</p> <p>20 A. I have done products</p> <p>21 liability now for 20 years, 15 to 20</p> <p>22 years. I have testified in virtually</p> <p>23 none of them, at least with the</p> <p>24 pharmaceutical cases, but I have been</p> <p>25 working over that period of time.</p>

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<p>1 Q. How many times have you been</p> <p>2 retained in a medical device case over</p> <p>3 the past 20 years?</p> <p>4 A. I've had a long-standing</p> <p>5 involvement with St. Jude Medical for</p> <p>6 over 8 to 10 years, leading to testimony</p> <p>7 last year.</p> <p>8 Q. On how many occasions have</p> <p>9 you been retained where there was an</p> <p>10 issue of whether or not a medical device</p> <p>11 was defective?</p> <p>12 A. That was, I believe, the</p> <p>13 only medical device case. The other</p> <p>14 products liability have been drug or --</p> <p>15 and even with the products liability, it</p> <p>16 was primarily -- I was involved mainly</p> <p>17 with the experimental studies dealing</p> <p>18 with the device.</p> <p>19 Q. On how many occasions over</p> <p>20 the past 20 years have you acted as an</p> <p>21 expert in where there was an issue of</p> <p>22 whether a drug or medical device was at</p> <p>23 issue?</p> <p>24 A. I don't keep a precise</p> <p>25 count, so I don't know.</p>	<p>1 subject.</p> <p>2 Q. And in every single case in</p> <p>3 which there's a medical device or drug at</p> <p>4 issue, and we're talking at least 100, if</p> <p>5 not more, you have acted as the expert on</p> <p>6 behalf of the defense, correct?</p> <p>7 MR. SNELL: Objection to the</p> <p>8 form.</p> <p>9 A. Correct, except for one case</p> <p>10 a number of years ago that I did for</p> <p>11 plaintiffs in an asbestos litigation.</p> <p>12 Q. That doesn't involve a</p> <p>13 medical device or a drug, correct?</p> <p>14 A. No. Correct.</p> <p>15 Q. Fair to say in the more than</p> <p>16 100 cases in which there's been an issue</p> <p>17 involving a medical device or drug, you</p> <p>18 have acted as an expert on behalf of</p> <p>19 defense in every single one of those</p> <p>20 cases?</p> <p>21 A. Correct.</p> <p>22 MR. SNELL: Objection to</p> <p>23 form.</p> <p>24 BY MR. MAZIE:</p> <p>25 Q. And you've never acted as an</p>
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<p>1 Q. Can you estimate for us?</p> <p>2 A. It's, I'd say, between five</p> <p>3 and ten cases a year over the past 10</p> <p>4 years.</p> <p>5 Q. And what percentage of those</p> <p>6 cases in which there was an issue</p> <p>7 involving the medical device or drug did</p> <p>8 you testify or were you an expert,</p> <p>9 rather, on behalf of the plaintiff versus</p> <p>10 the defense?</p> <p>11 A. They were all for defense.</p> <p>12 Q. Fair to say that -- strike</p> <p>13 that.</p> <p>14 Can you tell me how many you</p> <p>15 said per year?</p> <p>16 A. Five to ten.</p> <p>17 Q. So, is it fair to say you</p> <p>18 have acted as an expert in cases in which</p> <p>19 there was either a medical device or drug</p> <p>20 at issue on more than 100 cases?</p> <p>21 MR. SNELL: Objection, form.</p> <p>22 A. I think in total, more</p> <p>23 likely, yes, because a number of cases</p> <p>24 dealt with specific issues from</p> <p>25 individuals dealing with the same</p>	<p>1 expert on behalf of the plaintiff in a</p> <p>2 case in which there was a medical device</p> <p>3 or drug at issue, correct?</p> <p>4 A. Correct.</p> <p>5 MR. SNELL: Objection to</p> <p>6 form.</p> <p>7 BY MR. MAZIE:</p> <p>8 Q. I'm going to give you some</p> <p>9 just ground rules, even though you're</p> <p>10 obviously familiar with them. First of</p> <p>11 all, you understand you're under oath?</p> <p>12 A. Correct.</p> <p>13 Q. You understand that your</p> <p>14 testimony has the same force and effect</p> <p>15 as if you were sitting before a judge and</p> <p>16 jury at this time?</p> <p>17 A. Yes.</p> <p>18 Q. If I ask you a question and</p> <p>19 you answer it, I'm going to presume you</p> <p>20 understood the question. If you don't</p> <p>21 understand the question or any part of</p> <p>22 it, let me know and I'll rephrase it.</p> <p>23 But if you answer the question, I'm going</p> <p>24 to presume you understood it. Okay?</p> <p>25 A. Yes.</p>

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<p>1 Q. Obviously, don't speculate, 2 don't guess. If you know something, you 3 will tell us that. Okay? 4 A. Yes. 5 Q. Doctor, are you affiliated 6 with any type of expert organization that 7 advertises your services? 8 A. None whatsoever. 9 Q. Do you advertise your 10 services? 11 A. Absolutely not. 12 Q. Have you worked with Butler 13 Snow or any of its attorney in the past? 14 A. I have worked with Mr. Snell 15 once. I don't recall whether he was at 16 Butler Snow at the time, but I have 17 worked with him. 18 Q. And what type of case did 19 you work with Mr. Snell? 20 A. It was a Phen-fen case. 21 Q. And did you actually testify 22 at a deposition in the Phen-fen case? 23 A. Not that I recall. 24 Q. And aside from that one 25 occasion with Mr. Snell, have you ever</p>	<p>1 A. I don't know. 2 Q. Fair to say that you have 3 worked as an expert on behalf of Johnson 4 & Johnson between 10 and 20 times? 5 A. By definition. 6 Q. Is that correct? 7 A. Yes. 8 Q. Doctor, you have privileges 9 at Jacobi Medical Center? 10 A. Yes, I do. 11 Q. Do you have privileges 12 anywhere else? 13 A. I don't know if I have 14 active privileges at Montefiore. I don't 15 think I do anymore. 16 Q. You don't hold any positions 17 at Montefiore? 18 A. Correct. 19 Q. What positions do you hold 20 at Jacobi Medical Center? 21 A. I'm chairman of the 22 department of pathology. 23 Q. Any other positions? 24 A. I'm director of anatomic 25 pathology as well as chairman.</p>
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<p>1 worked with him or anyone at his firm? 2 A. Not to my recollection. 3 Q. Never worked with Christie 4 Jones? 5 A. No. 6 Q. Have you ever worked as an 7 expert or been retained as an expert on 8 behalf of Ethicon, Johnson & Johnson or 9 any of the affiliated entities with 10 Johnson & Johnson? 11 A. Johnson & Johnson, yes, not 12 Ethicon. 13 Q. On how many occasions have 14 you acted as an expert for Johnson & 15 Johnson? 16 A. I don't know the number, but 17 it's -- they were all drug cases and I 18 would be guessing. I don't know. 19 Q. Have you worked as an expert 20 on behalf of Johnson & Johnson more than 21 ten times? 22 A. Yes. 23 Q. Have you worked as an expert 24 on behalf of Johnson & Johnson more than 25 25 times?</p>	<p>1 Q. Are those all of your 2 positions at this hospital? 3 A. At the hospital, yes. 4 Q. Do you have any positions 5 with any professional organizations? 6 A. Well, I'm -- I have 7 positions at the medical school. I, 8 also, belong to a number of organizations 9 where I have had positions and still have 10 some degree of active positions. 11 Q. What medical school are we 12 speaking about? 13 A. Albert Einstein College of 14 Medicine. 15 Q. What is your position there? 16 A. I'm a tenure full professor 17 of pathology of medicine. 18 Q. Do you have a subspecialty 19 in pathology? 20 A. Yes, I do. 21 Q. What is that? 22 A. Cardiovascular pathology. 23 Q. You are not a urogynecologic 24 pathologist, correct? 25 A. That is correct.</p>

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<p>1 MR. SNELL: Object to form.</p> <p>2 BY MR. MAZIE:</p> <p>3 Q. What is the difference</p> <p>4 between a urogynecologic pathologist and</p> <p>5 a cardiologic pathologist?</p> <p>6 A. Well, it has to do not so</p> <p>7 much with day to day examination of</p> <p>8 tissues. It has to do with, in my case</p> <p>9 at least, with my research and the bulk</p> <p>10 of my writing has dealt with</p> <p>11 cardiovascular disease of all aspects</p> <p>12 and, also, my teaching deals with</p> <p>13 cardiovascular disease. I see</p> <p>14 urogynecologic specimens all the time as</p> <p>15 part of my surgical pathology experience,</p> <p>16 but I'm not a urogynecologic pathologist.</p> <p>17 Q. What percentage of the time</p> <p>18 do you examine urogynecologic specimens?</p> <p>19 A. There's no way to calculate</p> <p>20 that. I sign out surgical specimens on a</p> <p>21 daily basis. I sign out cytology,</p> <p>22 generally, on a daily basis. And even</p> <p>23 the cases that I don't actually -- that</p> <p>24 I'm not actually responsible for, I see</p> <p>25 along with my staff during a daily peer</p>	<p>1 A. I was trying to estimate. I</p> <p>2 would say yearly I see between eight and</p> <p>3 ten mesh cases from abdominal ventral</p> <p>4 hernias and inguinal hernias. I, also,</p> <p>5 see significantly more vascular graphs</p> <p>6 with -- usually with GORE-TEX as the</p> <p>7 material used. And, occasionally, I see</p> <p>8 particularly at autopsy, vascular grafts</p> <p>9 from large vessels.</p> <p>10 Q. If you take GORE-TEX out of</p> <p>11 the mix, how often do you see any other</p> <p>12 type of surgical mesh?</p> <p>13 A. Well, it's EIGHT to ten</p> <p>14 hernia cases. And that's -- and other</p> <p>15 than that, the Dacron used for vascular</p> <p>16 grafts.</p> <p>17 Q. What the hernia mesh made of</p> <p>18 that you see?</p> <p>19 A. Most often, it's, to my</p> <p>20 knowledge, it's polypropylene, but I</p> <p>21 don't know that all of them include that.</p> <p>22 Q. Doctor, you're board</p> <p>23 certified?</p> <p>24 A. Yes, I am.</p> <p>25 Q. And in what discipline?</p>
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<p>1 review conference.</p> <p>2 Q. So you can't estimate for me</p> <p>3 and for this jury what percentage of the</p> <p>4 time that you actually examine</p> <p>5 urogynecologic specimens?</p> <p>6 A. Absolutely not. There's --</p> <p>7 I mean, we receive specimens on a daily</p> <p>8 basis. The gynecologists tend to operate</p> <p>9 or oncologic gynecologic surgeons operate</p> <p>10 one day a week, but our other</p> <p>11 gynecologists operate daily and we</p> <p>12 receive specimens virtually every day.</p> <p>13 Q. In your professional</p> <p>14 practice outside of this particular case,</p> <p>15 how many times have you reviewed or</p> <p>16 examined any type of transvaginal mesh</p> <p>17 from a pathologist standpoint?</p> <p>18 A. None that I can recall.</p> <p>19 Q. And aside from transvaginal</p> <p>20 mesh, how often do you actually -- strike</p> <p>21 that.</p> <p>22 In your work as a</p> <p>23 pathologist, how often do you actually</p> <p>24 examine specimens involving any type of</p> <p>25 mesh or any type of mesh, surgical mesh?</p>	<p>1 A. Anatomic and clinical</p> <p>2 pathology.</p> <p>3 Q. You were board certified in</p> <p>4 1995?</p> <p>5 A. Correct.</p> <p>6 Q. Did you have to take both</p> <p>7 oral and written boards?</p> <p>8 A. It was written and I believe</p> <p>9 a portion of the anatomic boards were</p> <p>10 oral at that time, yes.</p> <p>11 Q. Did you pass your written</p> <p>12 and oral boards on the first try?</p> <p>13 A. Yes.</p> <p>14 Q. Have your privileges in any</p> <p>15 hospital ever been suspended or revoked?</p> <p>16 A. No.</p> <p>17 Q. Have you ever been -- strike</p> <p>18 that.</p> <p>19 Has anyone ever filed a</p> <p>20 complaint against you with the Board of</p> <p>21 Medical Examiners or any other</p> <p>22 organizations?</p> <p>23 A. No.</p> <p>24 MR. SNELL: Form.</p> <p>25 BY MR. MAZIE:</p>

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<p>1 Q. Have you ever been sued for 2 malpractice? 3 A. I was named in a suit that I 4 had nothing to do with, just as the 5 chairman of the department and then I was 6 subsequently dropped. 7 Q. Just once? 8 A. To my knowledge, yes. 9 Q. Have you ever written any 10 articles involving mesh? 11 A. No. 12 Q. Mesh of any sort? 13 A. No. 14 Q. Have you ever given any 15 presentations concerning mesh, surgical 16 mesh? 17 A. No. 18 Q. Have you ever studied 19 surgical mesh? 20 MR. SNELL: Objection to 21 form. 22 A. I don't recall because I 23 have done studies with my surgical 24 colleagues, my cardiac surgical 25 colleagues and whether or not they used</p>	<p>1 pathology slides that I have to do here 2 in the office, but most of the remaining 3 work is done at night and weekends. 4 Q. How many cases do you 5 currently have for J&J? 6 A. None that I recall. They're 7 still active. There may be one or two 8 out there, but I don't know. 9 Q. Can you estimate for me over 10 the past 10 years how much money J&J has 11 paid you for expert work? 12 A. I have no idea. 13 Q. What are you being paid on 14 an hourly basis for this case? 15 A. \$500 an hour. 16 Q. Do you know how much you 17 have been paid to date? 18 A. Yes. 19 Q. How much? 20 A. 21,000. 21 Q. Doctor, you have issued one 22 report in this case? 23 A. Correct. 24 Q. Linda Gross? 25 A. Correct.</p>
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<p>1 any mesh materials in those studies, I 2 don't recall whether it did or not. 3 Q. As you sit here today, you 4 can't recall any presentations you have 5 given on surgical mesh? 6 A. To my knowledge, I haven't 7 given any presentations. 8 Q. To your knowledge, you have 9 never done any research on surgical mesh, 10 correct? 11 A. Correct. 12 Q. Doctor, what percentage of 13 your income over the past 10 years has 14 been as a result of medical-legal expert 15 work? 16 A. It's averaged between 25 and 17 40 percent. 18 Q. What percentage of your time 19 over the past 10 years has been as a 20 result of medical-legal expert work? 21 A. It's difficult to total. In 22 general, with all cases, between 10 to 20 23 hours a week, but not every week. And 24 usually that's during evenings and 25 weekends, other than actually reviewing</p>	<p>1 Q. That would be dated October 2 9, 2012? 3 A. Yes. 4 Q. And does this report contain 5 all of your opinions in the case? 6 A. To date, yes. 7 Q. What do you mean to date? 8 A. Well, if additional 9 information becomes available, I might be 10 asked to write a supplement, but I 11 haven't done so as of yet. 12 Q. As of right now, these are 13 all the opinions you have in the case, 14 correct? 15 A. Right. 16 Q. And let me ask you, is it 17 fair to say that mesh when it's placed in 18 the human body elicits a foreign body -- 19 I'm sorry. Is it fair to say that when 20 mesh is placed into the human body 21 provokes inflammation? 22 A. Yes. 23 Q. And explain to us how that 24 works? 25 A. The mesh is recognized as a</p>

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<p>1 foreign material and it elicits an 2 inflammatory response, which is -- 3 includes changes comparable to wound 4 healing with the development of 5 granulation tissue, the laying down of 6 fibrosis, the development of 7 neovasculature. And along with that, it 8 elicits an inflammatory response. And 9 that includes the reaction of mononuclear 10 cells, monocytes that are altered into 11 macrophages and then ultimately, in some 12 cases, multinuclear giant, foreign body 13 type giant cells, along with lymphocytes 14 and rarely eosinophils or mass cells. 15 Q. And as you sit here today, 16 do you know how much mesh was placed in 17 Linda Gross? 18 A. How much volumetrically? 19 Q. Yes. 20 A. I don't know. 21 Q. If you took each fiber and 22 stretched it out, do you know how much 23 distance that would be? 24 A. I have no idea. 25 Q. In your review of the</p>	<p>1 natural tissue, as well as in response to 2 injury. 3 Q. Doctor, you've reviewed a 4 number of slides with regard to Linda 5 Gross, correct? 6 A. Yes. 7 Q. Can you tell me how many 8 slides? 9 A. I have to total them up. 10 There were 19 slides, but then 11 subsequently I saw a second set, one 12 initially with the plaintiff's slides and 13 then I saw a set of defense slides. And 14 there were, also, some blanks in there. 15 So, my -- as best as I can tell from my 16 report, and I didn't quantify them, but 17 just going by the number of cases, the 18 number of accession cases and the number 19 of slides listed with those cases, I 20 believe there are 19. 21 Q. 19 pieces of tissue were 22 examined by you? 23 A. There may be even more 24 tissue on one slide, but 19 slides. 25 Q. Can you estimate for me how</p>
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<p>1 pathology slides for Linda Gross, you saw 2 lymphocytes? 3 A. Yes. 4 Q. You saw macrophages? 5 A. Yes. 6 Q. Did you see giant cells? 7 A. I saw some, yes. 8 Q. Did you see fibroblasts? 9 A. Yes. 10 Q. Did you see scar tissue? 11 A. There was fibrosis, yes. 12 Q. And how is fibrosis formed? 13 A. Fibrosis is the response of 14 the body again to healing with the 15 development of granulation tissue which 16 includes fibroblasts and endothelia cells 17 and buds of endothelia cells forming new 18 vessels. The fibroblasts secrete 19 procollagen, which polymerizes and then 20 initially develops a matrix of type three 21 collagen, which is also called reticulin, 22 and then over the course of days and 23 weeks and months, leads to the 24 development of type one collagen, which 25 is the typical collagen present in</p>	<p>1 many pieces of tissue you actually 2 examined? 3 A. I can't tell you that. 4 Q. Approximately. 5 A. I have no idea. It's, 6 approximately, 19. But whether any one 7 slide had two separate pieces of tissue, 8 I can't tell. 9 Q. From how many operations -- 10 strike that. 11 The, approximately, 19 12 slides that you examined, how many 13 different sources did they come from? 14 And what I'm asking about sources, 15 sources within Linda Gross' body. 16 A. Well, this is separate 17 accessioned tissues that are from the 18 gynecologic track, as well as elsewhere, 19 but total is the total number of 20 accession cases. 21 Q. And from how many operations 22 did those slides come from? 23 A. By my count, eight. 24 Q. Do you know how many 25 operations Linda Gross has had?</p>

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<p>1 A. I believe 18.</p> <p>2 Q. As you sit here today, can</p> <p>3 you tell us those areas of Linda Gross'</p> <p>4 body, those tissue samples came from that</p> <p>5 you examined in this case?</p> <p>6 A. I can go by what or how they</p> <p>7 are labeled or how they were identified.</p> <p>8 One was rectovaginal mass. One was left</p> <p>9 posterior vagina, right posterior vagina.</p> <p>10 Another was large bowel biopsy, upper</p> <p>11 posterior vagina and ischial spine. It</p> <p>12 wasn't identified as the left or right.</p> <p>13 And then a separate one from left ischial</p> <p>14 spine, a separate one from soft tissue</p> <p>15 left buttock. Another one from left</p> <p>16 buttock. Another from fallopian tubes</p> <p>17 and another from retropubic mass.</p> <p>18 Q. Doctor, is it fair to say in</p> <p>19 those areas where you did not examine any</p> <p>20 tissue samples you have no opinion as to</p> <p>21 whether and to what extent there was any</p> <p>22 type of inflammation or fibrosis?</p> <p>23 A. Correct.</p> <p>24 Q. Doctor, is it fair to say</p> <p>25 that wherever the mesh is --</p>	<p>1 cases, the accession cases I, also,</p> <p>2 reviewed other slides.</p> <p>3 Q. So your answer has to do</p> <p>4 with two questions ago. Let's make sure.</p> <p>5 Is that correct?</p> <p>6 A. I believe I said there were</p> <p>7 eight accession cases and I listed those</p> <p>8 eight. There are additional other slides</p> <p>9 from the defense set of slides that I,</p> <p>10 also, reviewed that were not included</p> <p>11 with the plaintiff's slides.</p> <p>12 Q. Do you have a list of what</p> <p>13 those --</p> <p>14 A. Yes. That includes the</p> <p>15 cervix and uterus, it includes the</p> <p>16 gallbladder, it includes hemorrhoids, and</p> <p>17 that's it.</p> <p>18 Q. Okay. And just so the</p> <p>19 record is clear, aside from what the</p> <p>20 slides you looked at, whether they be</p> <p>21 from the plaintiff or the defense, you</p> <p>22 have no opinion as to those other areas</p> <p>23 of Linda Gross' body and what was</p> <p>24 transpiring within those other parts of</p> <p>25 her body?</p>
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<p>1 A. Can I add something?</p> <p>2 Q. Sure.</p> <p>3 A. Because in the defense</p> <p>4 slides, there were other tissues that</p> <p>5 were not included with the plaintiff's</p> <p>6 slides.</p> <p>7 Q. I'm talking about any slides</p> <p>8 you've reviewed.</p> <p>9 A. Okay.</p> <p>10 Q. Just so we're clear, you</p> <p>11 have no opinions on what is going on any</p> <p>12 part of Linda Gross' body aside from what</p> <p>13 you saw on those particular tissue -- s?</p> <p>14 A. No.</p> <p>15 Q. -- samples?</p> <p>16 MR. SNELL: Object to form.</p> <p>17 A. But the ones I've identified</p> <p>18 for you were from the plaintiff's slide I</p> <p>19 initially reviewed and then I</p> <p>20 subsequently reviewed similar tissues</p> <p>21 from the plaintiff, but I, also reviewed</p> <p>22 others that were not included with the</p> <p>23 plaintiff's slides.</p> <p>24 Q. In addition to the 19 or?</p> <p>25 A. In addition to the number of</p>	<p>1 A. Correct.</p> <p>2 Q. So whether or not there's</p> <p>3 inflammation, fibrosis or anything else</p> <p>4 going on in her body, if you didn't</p> <p>5 examine a tissue slide relating to it,</p> <p>6 you have no opinion on it?</p> <p>7 A. Correct.</p> <p>8 Q. And the -- just so I'm</p> <p>9 clear, is it fair to say that any time</p> <p>10 there is mesh, the tissue next to the</p> <p>11 mesh has inflammation or becomes</p> <p>12 inflamed?</p> <p>13 MR. SNELL: Objection to</p> <p>14 form.</p> <p>15 A. Not universally, no. There</p> <p>16 are areas even in these slides that show</p> <p>17 mesh without inflammation or without any</p> <p>18 meaningful inflammation.</p> <p>19 Q. Are you going to be</p> <p>20 rendering an opinion in this case --</p> <p>21 strike that.</p> <p>22 Is it fair to say that the</p> <p>23 majority of the time where mesh is</p> <p>24 touching tissue it will cause</p> <p>25 inflammation in that tissue?</p>

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<p>1 MR. SNELL: Objection to</p> <p>2 form.</p> <p>3 A. It's variable. The</p> <p>4 inflammation that's present in some areas</p> <p>5 is obvious and in other areas, there's</p> <p>6 virtually no inflammation. Or if there's</p> <p>7 inflammation, it may be associated -- or</p> <p>8 it is associated with other findings,</p> <p>9 including the presence of hemosiderin.</p> <p>10 Q. What is the significant of</p> <p>11 the presence of hemosiderin?</p> <p>12 A. It's a natural response or</p> <p>13 natural result from surgery during the</p> <p>14 course of surgery regardless of what the</p> <p>15 surgical procedure is, there is</p> <p>16 disruption of blood vessels bleeding into</p> <p>17 the tissue and then the blood breaks</p> <p>18 down, the hemoglobin is released from the</p> <p>19 red cells and turns in to hemosiderin</p> <p>20 which elicits an inflammatory response.</p> <p>21 Q. How long does it take for</p> <p>22 hemosiderin to form?</p> <p>23 A. Within four to seven days,</p> <p>24 you see hemosiderin in the tissue.</p> <p>25 Q. So if hemosiderin is shown</p>	<p>1 doesn't change at all from that moment</p> <p>2 on.</p> <p>3 Q. You said it takes four to</p> <p>4 seven days for hemosiderin to form.</p> <p>5 A. Once you get bleeding in the</p> <p>6 tissue, from the surgical procedure, you</p> <p>7 will develop breakdown of the red cells</p> <p>8 and the development of hemosiderin. So,</p> <p>9 obviously, the hemosiderin is not for the</p> <p>10 surgical procedure that was done at the</p> <p>11 time of the resection, it was done -- or</p> <p>12 is associated with procedures that were</p> <p>13 antecedent to the procedure.</p> <p>14 Q. That was my point. I want</p> <p>15 to make sure we were on the same page.</p> <p>16 So, if a tissue sample shows</p> <p>17 hemosiderin, that relates to a prior</p> <p>18 procedure?</p> <p>19 A. Correct.</p> <p>20 Q. And so you are not giving</p> <p>21 any opinion in this case as to how often</p> <p>22 mesh causes inflammation in the tissue?</p> <p>23 MR. SNELL: Objection to</p> <p>24 form.</p> <p>25 A. All I said was that the</p>
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<p>1 on some of these pathology slides, as it</p> <p>2 relates to the actual operation from</p> <p>3 which the tissue was taken or a prior</p> <p>4 operation?</p> <p>5 A. There's no way to determine</p> <p>6 that other than the immediacy of the</p> <p>7 hemosiderin to the tissue that's being</p> <p>8 resected at the time. Whether it was</p> <p>9 there prior to that, it's unlikely, but</p> <p>10 theoretically it's possible. Hemosiderin</p> <p>11 persists in the tissue, essentially,</p> <p>12 forever.</p> <p>13 Q. Well, I'm trying to</p> <p>14 understand. So if there's an operation</p> <p>15 and they take a piece of tissue to send</p> <p>16 to pathology, does hemosiderin continue</p> <p>17 to form from that point forward?</p> <p>18 A. Hemosiderin -- you mean once</p> <p>19 the tissue is out of the body?</p> <p>20 Q. Yes.</p> <p>21 A. No.</p> <p>22 Q. So, once the tissue is taken</p> <p>23 out of the body, it's then sent to</p> <p>24 pathology, correct?</p> <p>25 A. Sent in fixative. It</p>	<p>1 inflammation associated with the mesh is</p> <p>2 variable. There are areas with virtually</p> <p>3 no inflammation and that are areas with</p> <p>4 more obvious inflammation.</p> <p>5 Q. My question is, you are not</p> <p>6 giving an opinion in this case on a</p> <p>7 global scale as to how often the Prolift</p> <p>8 mesh will cause inflammation in the</p> <p>9 adjoining tissues?</p> <p>10 A. I don't understand the</p> <p>11 question.</p> <p>12 MR. SNELL: Object to form.</p> <p>13 BY MR. MAZIE:</p> <p>14 Q. Okay. Well, you're giving</p> <p>15 opinions in this case in the tissue</p> <p>16 samples you examined, correct?</p> <p>17 A. Correct.</p> <p>18 Q. Beyond those tissue samples,</p> <p>19 there's an overall question I'm asking</p> <p>20 you. And that is, whether you're giving</p> <p>21 an opinion as to how often and to what</p> <p>22 extent the Prolift mesh will cause</p> <p>23 inflammation in the patient's tissues.</p> <p>24 A. You are talking about --</p> <p>25 MR. SNELL: Objection to</p>

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<p>1 form.</p> <p>2 Q. Global?</p> <p>3 A. -- global patient's tissues.</p> <p>4 The answer is, no.</p> <p>5 Q. You are not giving that</p> <p>6 opinion?</p> <p>7 A. No.</p> <p>8 Q. Doctor, were there is</p> <p>9 inflammation, will that inflammation</p> <p>10 inflame nerves?</p> <p>11 A. Say that again.</p> <p>12 Q. Where you do have a</p> <p>13 situation where the mesh causes</p> <p>14 inflammation, will the inflammation to</p> <p>15 the extent there's nerves there, inflame</p> <p>16 the nerves?</p> <p>17 MR. SNELL: Objection to</p> <p>18 form.</p> <p>19 A. Only if one identifies</p> <p>20 evidence of neural involvement by</p> <p>21 inflammation, which I did not.</p> <p>22 Q. I'm asking you</p> <p>23 theoretically.</p> <p>24 A. Theoretically, if you have</p> <p>25 nerves and tissue and you have</p>	<p>1 have identified that were present after</p> <p>2 being removed from her. In none of those</p> <p>3 nerves was there evidence of significant</p> <p>4 inflammation of nerves.</p> <p>5 Q. You don't know what went on</p> <p>6 or what is going on in the rest of her</p> <p>7 nerves or the rest of her tissues because</p> <p>8 you didn't examine them, correct?</p> <p>9 MR. SNELL: Objection to</p> <p>10 form.</p> <p>11 A. Well, that's a theoretical</p> <p>12 and, essentially, absurd comment.</p> <p>13 There's no way to know that without a</p> <p>14 biopsy, without knowing in other sites</p> <p>15 what is happening to nerves. There's</p> <p>16 no -- absolutely no scientific or</p> <p>17 otherwise way to know that.</p> <p>18 Q. And I asked you</p> <p>19 hypothetically if you have a situation</p> <p>20 where there's inflammation, can that</p> <p>21 cause inflamed nerves. And you called it</p> <p>22 neuritis.</p> <p>23 MR. SNELL: Objection to</p> <p>24 form.</p> <p>25 A. I said, theoretically, one</p>
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<p>1 inflammation, you can theoretically</p> <p>2 develop a neuritis, an inflammatory</p> <p>3 process involving nerves for any surgical</p> <p>4 procedure, regardless of what the</p> <p>5 procedure is and regardless of whether</p> <p>6 you use foreign material.</p> <p>7 Q. But my question is, if you</p> <p>8 have a situation where the Prolift mesh</p> <p>9 is causing inflammation and there's</p> <p>10 nerves within that tissue, is it fair to</p> <p>11 say that can inflame the nerves?</p> <p>12 MR. SNELL: Objection to</p> <p>13 form.</p> <p>14 A. Theoretically, if one sees</p> <p>15 it. But, if it's not seen, I can't</p> <p>16 answer in the global because we're not</p> <p>17 talking about the global picture. I'm</p> <p>18 talking about Mrs. Gross. And in that</p> <p>19 case, there is no inflammation of nerves,</p> <p>20 so I comment further than that.</p> <p>21 Q. You don't know what -- you</p> <p>22 didn't examine every nerve in every part</p> <p>23 of Mrs. Gross' pelvic area, correct?</p> <p>24 A. I examined the nerves that</p> <p>25 were present in all of the tissues that I</p>	<p>1 could have inflammation causing a</p> <p>2 neuritis, but one has to demonstrate it</p> <p>3 to make the diagnosis of neuritis.</p> <p>4 Q. Doctor, how would you</p> <p>5 characterize the inflammation that you</p> <p>6 saw within the tissue slides?</p> <p>7 A. As I indicated earlier, it</p> <p>8 was variable. There were areas with</p> <p>9 virtually no inflammation or very mild</p> <p>10 inflammation. There were areas with</p> <p>11 inflammation, particularly in the</p> <p>12 pictures that I saw today, areas</p> <p>13 predominantly associated with the</p> <p>14 presence of hemosiderin in the tissue.</p> <p>15 And there were a few areas where the</p> <p>16 inflammation was more significant.</p> <p>17 If taking the entire samples</p> <p>18 of tissue with it and without mesh --</p> <p>19 and, also, by the way, there's fat</p> <p>20 necrosis which causes inflammation,</p> <p>21 taking all that together, I would say the</p> <p>22 overall picture is one of mild to minimal</p> <p>23 in some cases inflammation.</p> <p>24 Q. And in some instances, is</p> <p>25 the inflammation that you saw more</p>

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<p>1 severe?</p> <p>2 A. In a few areas, the</p> <p>3 inflammatory response is more active. I</p> <p>4 don't know that I could quantify it as</p> <p>5 severe. If one is to do this from a</p> <p>6 scientific perspective, one would</p> <p>7 actually want to know the entire picture</p> <p>8 of inflammation. This is not a</p> <p>9 picture -- the tissues do not show a</p> <p>10 picture of severe inflammation</p> <p>11 throughout. There are few areas where</p> <p>12 the inflammatory response is more active</p> <p>13 and a few other areas where the</p> <p>14 inflammatory response is more active, but</p> <p>15 explained by other things, such as, as I</p> <p>16 said, hemosiderin or fat necrosis.</p> <p>17 Q. Doctor, does the -- when</p> <p>18 there's inflammation, does inflammation</p> <p>19 remain or does it then change into</p> <p>20 fibrosis?</p> <p>21 A. Inflammation and fibrosis</p> <p>22 are two separate processes. They go</p> <p>23 together to a certain extent, but the</p> <p>24 fibrosis is a response, as I indicated</p> <p>25 before, to wound healing, granulation</p>	<p>1 Q. Doctor, do you have an</p> <p>2 opinion as to what the cause of the</p> <p>3 fibrosis is that you saw within Ms.</p> <p>4 Gross' body?</p> <p>5 A. It's the normal response</p> <p>6 to -- that falls under the broad category</p> <p>7 of wound healing with -- as I said</p> <p>8 before, granulation tissue, laying down</p> <p>9 of collagen. And together with that,</p> <p>10 there's a macrophage response that in</p> <p>11 some areas is associated with the mesh or</p> <p>12 in some areas is associated with other</p> <p>13 phenomenon going on in the tissues.</p> <p>14 Q. Doctor, are you rendering an</p> <p>15 opinion in this case as to how mesh works</p> <p>16 within the female body?</p> <p>17 A. No.</p> <p>18 Q. Do you have an understanding</p> <p>19 of how the mesh is intended to work</p> <p>20 within the female body?</p> <p>21 A. Only in very broad senses.</p> <p>22 I mean, I'm not a bioengineer or</p> <p>23 mechanical engineer. I understand the</p> <p>24 general concept of support of the</p> <p>25 tissues, but I'm not here as an expert in</p>
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<p>1 tissue, laying down of collagen.</p> <p>2 Inflammation is, initially, associated</p> <p>3 with the macrophage and giant cell</p> <p>4 inflammation associated with foreign</p> <p>5 material, foreign bodies and that</p> <p>6 includes hemosiderin and fat necrosis,</p> <p>7 generally persists for long periods of</p> <p>8 time, sometimes as long as one can track</p> <p>9 the process, but it is not --</p> <p>10 inflammation and fibrosis go together but</p> <p>11 not directly.</p> <p>12 Q. Is it fair -- strike that.</p> <p>13 Are you saying that</p> <p>14 inflammation does not cause fibrosis?</p> <p>15 A. Well, depends what the</p> <p>16 inflammation is. If you have an abscess</p> <p>17 in the tissue due to infection, obviously</p> <p>18 you're going to get fibrosis as a result.</p> <p>19 But inflammation, per se, if it damages</p> <p>20 structures, if it damages the heart</p> <p>21 muscle, you will get fibrosis as a</p> <p>22 response to that. But when you're</p> <p>23 dealing with tissues, as we are in this</p> <p>24 case, the inflammation, per se, is not</p> <p>25 the cause of the fibrosis.</p>	<p>1 that area.</p> <p>2 Q. Doctor, do you have an</p> <p>3 understanding that the mesh is intended</p> <p>4 to have scar tissue form within it?</p> <p>5 A. Yes.</p> <p>6 Q. And did you see fibrosis or</p> <p>7 scar tissue form within the pieces of</p> <p>8 mesh that you saw on the slides?</p> <p>9 MR. SNELL: Objection to</p> <p>10 form. Can you read that question</p> <p>11 back, actually?</p> <p>12 - - -</p> <p>13 (Whereupon, the requested</p> <p>14 portion was read.)</p> <p>15 - - -</p> <p>16 MR. SNELL: My objection</p> <p>17 holds.</p> <p>18 THE WITNESS: There is</p> <p>19 fibrosis in the tissue associated</p> <p>20 with the mesh.</p> <p>21 BY MR. MAZIE:</p> <p>22 Q. I'm not sure if I understand</p> <p>23 your answer. There's fibrosis in the</p> <p>24 tissue associated with the mesh. What</p> <p>25 does that mean?</p>

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<p>1 A. Well, it's -- one of the</p> <p>2 problems in dealing with tissues from the</p> <p>3 vaginal wall is that the vagina is</p> <p>4 fibrous tissue surfaced by mucosa. And</p> <p>5 so, attempting to quantify the degree of</p> <p>6 fibrosis in the tissue is very difficult.</p> <p>7 One can see fibrous tissue surrounding</p> <p>8 mesh fibers. One can see fibrous tissue</p> <p>9 in areas of other damage, including fat</p> <p>10 necrosis and hemosiderin deposition, but</p> <p>11 to attempt to quantify it when you have a</p> <p>12 background of fibrosis is very difficult.</p> <p>13 There's no one way to pick out the</p> <p>14 fibrous tissue that formed as discrete</p> <p>15 scar related to the mesh from the tissue</p> <p>16 that's normally present in the vaginal</p> <p>17 stroma. There is fibrous tissue around</p> <p>18 mesh fibers and, presumably, that's</p> <p>19 fibrous tissue that formed as a response</p> <p>20 to the mesh.</p> <p>21 Q. Fair to say -- first of all,</p> <p>22 let me back up. Are you rendering any</p> <p>23 opinions in this case as to what the</p> <p>24 cause was of the fibrous tissue or the</p> <p>25 fibrosis that you visualized on any of</p>	<p>1 form.</p> <p>2 A. You are asking, am I going</p> <p>3 to or not going to?</p> <p>4 Q. Are you going to -- do you</p> <p>5 have -- let me ask it this way. Do you</p> <p>6 have any opinions in this case as to what</p> <p>7 the specific cause was of any of the</p> <p>8 fibrosis that you saw in any of the</p> <p>9 slides?</p> <p>10 A. Yes.</p> <p>11 MR. SNELL: Objection to</p> <p>12 form.</p> <p>13 THE WITNESS: I said before,</p> <p>14 it formed in response to the mesh,</p> <p>15 it formed in response to other</p> <p>16 injuries in the tissue.</p> <p>17 BY MR. MAZIE:</p> <p>18 Q. I understand that those are</p> <p>19 the things that can cause the fibrosis.</p> <p>20 My question to you is, are you going to</p> <p>21 be able to look at fibrosis and say this</p> <p>22 actual fibrosis here is as a result of</p> <p>23 mesh, or this fibrosis is not the result</p> <p>24 of mesh, it's a result of something else?</p> <p>25 MR. SNELL: Objection TO</p>
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<p>1 these slides?</p> <p>2 A. It's a response to the</p> <p>3 surgery. It's a response to the presence</p> <p>4 of mesh. It's a response to the other</p> <p>5 phenomenon that were present in the</p> <p>6 tissue, including bleeding and fat</p> <p>7 necrosis.</p> <p>8 Q. Are you rendering an opinion</p> <p>9 in this case as to whether and to what</p> <p>10 extent any of the fibrosis that you saw</p> <p>11 on the slides was the result of mesh</p> <p>12 versus something else?</p> <p>13 A. As I just indicated, there</p> <p>14 is evidence of fibrous tissue associated</p> <p>15 with the mesh fibers. To quantify that</p> <p>16 or to separate that from the surrounding</p> <p>17 fibrous tissue, in my opinion, is very</p> <p>18 difficult, if not impossible.</p> <p>19 Q. So you are not going to tell</p> <p>20 this jury at trial when showing a piece</p> <p>21 of -- or a slide that shows fibrosis</p> <p>22 whether that fibrosis comes from the mesh</p> <p>23 or whether it's comes from something</p> <p>24 else?</p> <p>25 MR. SNELL: Objection to</p>	<p>1 form. Are you taking about like</p> <p>2 every strand of fibrosis, every</p> <p>3 strand of fiber?</p> <p>4 MR. MAZIE: Yes, any of</p> <p>5 them. Any of them.</p> <p>6 MR. SNELL: Object to form,</p> <p>7 I mean --</p> <p>8 THE WITNESS: All that I can</p> <p>9 do and I think any examiner can do</p> <p>10 is to assess the presence of</p> <p>11 fibrous tissue in its immediate</p> <p>12 environment. Mesh fibers are</p> <p>13 present. There is fibrous tissue</p> <p>14 around -- between mesh fibers and</p> <p>15 presumably that the mesh fiber</p> <p>16 elicited the collagen deposition</p> <p>17 of fibrosis. There are other</p> <p>18 areas, as I said before, with fat</p> <p>19 necrosis and with hemosiderin</p> <p>20 that, also, are within an area of</p> <p>21 fibrosis and presumably that</p> <p>22 fibrosis was associated with those</p> <p>23 changes. But to try and quantify</p> <p>24 the extent of the fibrosis that's</p> <p>25 present related to any one of</p>

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<p>1 those processes, I believe, is not 2 possible. 3 BY MR. MAZIE: 4 Q. Doctor, are you going to be 5 rendering any opinions in this case on 6 mesh contraction? 7 A. No. 8 Q. Doctor, are you going to be 9 rendering any opinions on the size of the 10 mesh pores? 11 A. No. 12 Q. Doctor, are you going to be 13 rendering any opinions in this case on 14 whether a scar net formed or scar bridge? 15 A. Well, I didn't see anything 16 that was -- that could be, at least in my 17 understanding of scar bridges, that could 18 be interpreted as a scar bridge. There 19 was -- as I said, there was fibrous 20 tissue in the tissues, there were mesh 21 fibers and there were the other changes 22 that I indicated. There was nothing that 23 I could identify as a bridge. 24 Q. Are you rendering an opinion 25 in this case that there was no scar</p>	<p>1 say it more simply. 2 Do you have an understanding 3 of how the mesh changes, if at all, once 4 it's surgically placed into the body? 5 A. Are you asking about 6 degradation of the mesh? 7 Q. I'm asking you about about 8 degradation. I'm asking you whether it 9 contracts. I'm asking you whether it 10 becomes brittle or hard. I'm asking any 11 of those things? 12 MR. SNELL: Let me object to 13 the form. Are you talking Prolift 14 mesh? 15 BY MR. MAZIE: 16 Q. Prolift mesh, of course. 17 A. I see no evidence of 18 degeneration. I see no evidence, in my 19 experience of polypropylene, ever 20 undergoing degeneration of tissues. It 21 persists for years in a state comparable 22 to the way when it is placed in the body. 23 I see that in vascular specimens for 24 years. And I see nothing in these 25 tissues, other than the disruptions</p>
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<p>1 bridge or scar net formed anywhere within 2 Linda Gross' body? 3 A. Well, I didn't see 4 everywhere within Linda Gross' body. All 5 I saw was the tissues that I indicated 6 before. In those tissues, I see nothing 7 that indicates the presence of a bridge. 8 And if I'm asked that question, that's my 9 answer. 10 Q. Doctor, do you have an 11 opinions in this case on how the mesh 12 itself will change within the body? 13 MR. SNELL: Objection to 14 form. 15 A. I don't understand your 16 question. 17 Q. Do you have an understanding 18 of what happens to mesh once it's 19 surgically placed within the female body? 20 MR. SNELL: Same objection, 21 form. 22 A. I don't understand that 23 question, either. 24 Q. Do you have an 25 understanding -- I don't know how else to</p>	<p>1 associated with the sectioning, the 2 histological processing of the tissue 3 that indicates there's any change in the 4 mesh fiber. 5 Q. Aside from that one opinion 6 that you do not see any degeneration of 7 the Prolift mesh, do you have any other 8 opinions on what happens to the mesh once 9 it's placed in the female body? I'm 10 talking only about Prolift mesh. 11 A. No. 12 MR. SNELL: Objection to 13 form. 14 BY MR. MAZIE: 15 Q. If there's inflammation, 16 does it go through a process -- let me 17 ask it a different way. It's kind of a 18 lead up. 19 You talked about active 20 inflammation earlier, correct? You saw 21 no evidence of active inflammation or did 22 I misunderstand you? 23 A. No. I think that's a 24 misunderstanding because I have no way of 25 know whether those inflammatory cells</p>

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<p>1 are, in fact, active or quiescent.</p> <p>2 MR. MAZIE: By the way,</p> <p>3 Burt, to the extent that since</p> <p>4 this is a deposition that either</p> <p>5 will be completed today as to Mrs.</p> <p>6 Wicker or on another occasion, any</p> <p>7 of the questions I'm asking him</p> <p>8 about his background, about the</p> <p>9 overall response of the mesh,</p> <p>10 things that are generic to both</p> <p>11 cases, I'm assuming you will agree</p> <p>12 that I can use those questions in</p> <p>13 both cases, so I don't have to ask</p> <p>14 him the same questions again at</p> <p>15 the second deposition, if there is</p> <p>16 a second deposition?</p> <p>17 MR. SNELL: I don't know if</p> <p>18 I can agree to that because they</p> <p>19 are different cases with different</p> <p>20 pathologic aspects from my limited</p> <p>21 attorney's understanding. So,</p> <p>22 what his background was and legal</p> <p>23 work and payments and things like</p> <p>24 that, general questions about in</p> <p>25 general how the inflammatory</p>	<p>1 understand -- if you put in the</p> <p>2 context of Wicker, then there may</p> <p>3 be differences, there may be</p> <p>4 things he saw that have bearing</p> <p>5 upon inflammation, there might be</p> <p>6 other causes of inflammation.</p> <p>7 That's why I'm not sure if I can</p> <p>8 agree to that. I'm not trying to</p> <p>9 be difficult. I'm not a</p> <p>10 pathologist, so there may be</p> <p>11 differences. I don't know.</p> <p>12 MR. MAZIE: I'm going to</p> <p>13 take the position that anything</p> <p>14 that I'm asking him today that is</p> <p>15 generic as to the mesh or,</p> <p>16 obviously, relating to his</p> <p>17 background or anything like that</p> <p>18 or as to science regarding</p> <p>19 macrophages and inflammation and</p> <p>20 how fibrosis formed can be used on</p> <p>21 any case that he's been identified</p> <p>22 as an expert on in the</p> <p>23 consolidated cases.</p> <p>24 All right. Why don't we go</p> <p>25 off the record.</p>
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<p>1 process happens or how collagen</p> <p>2 lays down, those are general</p> <p>3 things, but --</p> <p>4 MR. MAZIE: I'm not --</p> <p>5 MR. SNELL: I'm confused by</p> <p>6 your question.</p> <p>7 MR. MAZIE: The question</p> <p>8 really relates to his background,</p> <p>9 it relates to whether he has any</p> <p>10 opinions on the pore size or</p> <p>11 whether there's degradation or how</p> <p>12 it effects the female body</p> <p>13 generically, Prolift mesh, all</p> <p>14 those questions would be the same</p> <p>15 for both cases. They're not</p> <p>16 specific to one versus the other.</p> <p>17 So all I'm saying is, I'm going to</p> <p>18 ask him now, so I don't have to</p> <p>19 ask him the exact same questions</p> <p>20 and get the exact same questions</p> <p>21 either later today or another day.</p> <p>22 It would be silly.</p> <p>23 MR. SNELL: If they're</p> <p>24 general questions, they're general</p> <p>25 questions. I just don't</p>	<p>1 VIDEOGRAPHER: The time is</p> <p>2 now 2:57. We are going off the</p> <p>3 record.</p> <p>4 - - -</p> <p>5 (Whereupon, a brief recess</p> <p>6 was taken.)</p> <p>7 - - -</p> <p>8 VIDEOGRAPHER: The time is</p> <p>9 now 3:05. We are back on the</p> <p>10 record.</p> <p>11 BY MR. MAZIE:</p> <p>12 Q. Let's go to your report now,</p> <p>13 Doctor. In the first paragraph, you</p> <p>14 state fibrosis --</p> <p>15 A. What page?</p> <p>16 Q. Conclusions. You say that</p> <p>17 fibrosis, whether it's secondary to</p> <p>18 traumatic or -- how do pronounce that?</p> <p>19 A. Iatrogenic.</p> <p>20 Q. Iatrogenic injury or</p> <p>21 response to tissue necrosis or damage</p> <p>22 elicits a chronic inflammatory response</p> <p>23 in association with the maturation of the</p> <p>24 collagen fibers.</p> <p>25 Is what you are saying there</p>

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<p>1 fibrosis itself elicits a chronic 2 inflammatory response? 3 A. There are inflammatory cells 4 that are associated with the development 5 of granulation tissue that will persist 6 in the tissue once the collagen and the 7 new vessels have formed. 8 Q. So, sometimes inflammation 9 causes fibrosis, correct? 10 A. Well, it's not causing the 11 fibrosis. There's an injury to the 12 tissue of one sort or another that leads 13 to fibrosis. The inflammatory response 14 is part of that. 15 Q. Okay. And if there is 16 inflammation as a result of the fibrosis, 17 will you be able to see that in the 18 slides? 19 A. Well, you can see -- 20 certainly see the inflammatory cells and 21 the presence of the collagen. They are a 22 normal component of healing regardless of 23 what, as I said here, regardless of what 24 the injury is. 25 Q. You say lower down, foreign</p>	<p>1 place. You see it in selected areas. 2 Q. But that inflammation itself 3 will be chronic? 4 MR. SNELL: Objection to 5 form. 6 A. Chronic inflammation has two 7 definitions. One is in -- relative to 8 the type of inflammatory cell that's 9 present, just like acute inflammation 10 tends to mean neutrophils and occasional 11 eosinophils. Chronic inflammation is 12 composed of lymphocytes, monocytes, 13 macrophages and occasionally mass cells. 14 That's a particular terminology that's 15 used in a pathologic sense. It's not a 16 temporal sense. It has some temporal 17 component because the more chronic 18 inflammatory response tends to follow the 19 more acute inflammatory response. So 20 there is a time dependency. But when you 21 are talking about chronicity, 22 long-standing process, that's a different 23 kind of chronic. 24 Q. Okay. Let's talk about the 25 temporal relationship to the chronic</p>
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<p>1 bodies are present, the inflammatory 2 response is chronic and persistent. What 3 does that mean? 4 A. That the macrophage and 5 giant cell response -- the macrophage and 6 giant cell response will persist in the 7 tissue in some cases forever. It will -- 8 even in situations where you look at 9 surgical suture granulomas ten years 10 later, it will still be inflammatory 11 cells, macrophages in a few lymphocytes. 12 Q. Is it fair to say as a 13 general proposition where mesh -- and I'm 14 talking about Prolift mesh -- is placed 15 within the female body where there's an 16 inflammatory response is going to be 17 chronic in many instances? 18 A. Almost exclusively, yes. 19 Q. So, any time there's a 20 Prolift mesh, there will be a chronic 21 inflammatory response within the female 22 body? 23 A. Of one degree or another. 24 It's not universal. In other words, you 25 don't see inflammation all over the</p>	<p>1 inflammatory response from the mesh. 2 Okay? 3 Where there is a chronic 4 inflammatory response from the mesh in 5 the female body that mesh will stay 6 inflamed for how long? 7 MR. SNELL: Objection to 8 form. 9 A. Well, the concept of 10 inflamed, generally, indicates an act of 11 process of inflammation. And that's not 12 what is present, at least as best as we 13 can tell. There is inflammatory cells as 14 a result of the foreign material, but 15 they aren't necessarily doing anything in 16 an inflammatory process. In other words, 17 they're not, to the best of my knowledge, 18 releasing enzymes or other substances in 19 the tissue that have an adverse effect on 20 the tissue, they're just there. 21 Q. Where there is that type of 22 chronic inflammatory response, how long 23 will it last? 24 A. Potentially, forever. 25 Q. So, when there is a chronic</p>

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<p>1 inflammatory response from the mesh 2 itself, it's permanent in nature? 3 MR. SNELL: Objection to 4 form. 5 BY MR. MAZIE: 6 Q. That response. 7 A. If there's inflammation, it 8 can persist, essentially, forever. 9 Q. You would expect that, where 10 there is inflammation, that the 11 inflammation will persist within the body 12 until the person dies? 13 A. Correct. 14 Q. And you say that for 15 some unknown -- I'm sorry. You say for 16 unknown reasons, some patients may have a 17 much more intense response than others 18 even when using similar materials and 19 surgical techniques. What did you mean 20 by that? 21 A. That there's patient 22 variability, unpredictable patient 23 variability regardless of what the 24 materials are, that some patients react 25 more actively, more exuberantly to</p>	<p>1 inflammatory response to the mesh as 2 opposed to others? 3 A. Well, I don't -- as I said, 4 I don't know that's true with mesh. I 5 haven't -- most of the cases of mesh that 6 I have seen in regard to hernias were 7 removed for other reasons, either 8 adhesion to other sites to other organs 9 and in many cases due to infection. So 10 it's difficult to generalize to meshes as 11 a class of materials. 12 Q. All right. Then, we'll back 13 it up one. And it's fair to say that 14 it's your opinion that when foreign 15 bodies, such as mesh, are placed into 16 the body, some people have more of an 17 intense response, inflammatory response 18 to the foreign body as opposed to others? 19 MR. SNELL: Objection to 20 form. 21 A. As I said, I don't know I 22 can generalize to mesh because I don't 23 have the experience, other than that 24 which I have indicated. The statement 25 had to do with foreign material across</p>
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<p>1 foreign material than others. And you 2 can see this in a number of different 3 situations. It's -- there's no way to 4 understand it, to predict it, to even 5 truly understand the mechanism, whether 6 it's an allergic phenomenon or some other 7 phenomena, it's not known. 8 Q. So it's fair to say that the 9 mesh will react differently within 10 different women? 11 MR. SNELL: Objection to 12 form. 13 A. Well, I don't know that. 14 I'm just -- this was a general statement 15 of observations with foreign materials in 16 many different situations where, in some 17 cases, they're of a much more pronounced 18 inflammatory response with similar 19 materials versus other patients. I can't 20 speak to the vast population of patients 21 with mesh other than the mesh that I have 22 seen in hernia procedures. 23 Q. You're experience as a 24 pathologist in examining mesh is that 25 some patients have a much more intense</p>	<p>1 the spectrum of foreign materials used in 2 surgical procedures. 3 Q. So you can't give us an 4 opinion one way or the other as to 5 whether or not mesh, in particular 6 Prolift mesh, affects different people 7 differently? 8 A. Correct. 9 Q. And you can't give an 10 opinion with regard to Prolift mesh as to 11 what type of inflammatory response is 12 expected within the average person? 13 MR. SNELL: Objection to 14 form. 15 BY MR. MAZIE: 16 Q. Or the average female. 17 MR. SNELL: Same objection. 18 A. Well, my understanding is 19 that the type of inflammation is what I 20 have described. That it's mononuclear 21 and macrophage inflammation with 22 fibroblast as a general response to the 23 presence of the mesh material. 24 Q. But can you quantify what is 25 the expected inflammation; in other</p>

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<p>1 words, how bad or how severe that</p> <p>2 inflammation is in the typical female</p> <p>3 anatomy?</p> <p>4 MR. SNELL: Objection to</p> <p>5 form.</p> <p>6 THE WITNESS: I would have to</p> <p>7 look at large numbers of specimens</p> <p>8 to be able to answer that and I</p> <p>9 can't answer that.</p> <p>10 BY MR. MAZIE:</p> <p>11 Q. So you don't have such an</p> <p>12 opinion?</p> <p>13 A. Correct.</p> <p>14 Q. Do you have any opinions as</p> <p>15 to whether someone who has a pre-existing</p> <p>16 chronic pain syndrome is affected</p> <p>17 differently by the mesh?</p> <p>18 A. I do not, no.</p> <p>19 Q. You say that surgery, per</p> <p>20 se, regardless of whether foreign</p> <p>21 material is used, including sutures, will</p> <p>22 lead to tissue damage with necrosis of</p> <p>23 connective tissue and fat; is that</p> <p>24 correct?</p> <p>25 A. Correct.</p>	<p>1 process. Obviously, if one makes an</p> <p>2 incision in the skin, a scar will form.</p> <p>3 That's easily identifiable because</p> <p>4 there's an absence -- there are changes</p> <p>5 in the epidermis and there's an absence</p> <p>6 of skin appendages in the underlying</p> <p>7 tissue and we see that grossly, as well</p> <p>8 as microscopically. In dealing with</p> <p>9 tissues, such as mesh implanted in</p> <p>10 vaginal tissue, there is fibrosis,</p> <p>11 there's no question, but -- and one</p> <p>12 could, based on the general concept that</p> <p>13 when you have surgical disruption of the</p> <p>14 tissue, you will develop fibrosis which</p> <p>15 is equivalent to scar. I would agree</p> <p>16 that there is some -- there's scar</p> <p>17 tissue, but it's not as easily definable</p> <p>18 as it is in certain tissues because of</p> <p>19 the nature of the underlying tissue</p> <p>20 itself.</p> <p>21 MR. MAZIE: I object and</p> <p>22 move to strike as nonresponsive.</p> <p>23 BY MR. MAZIE:</p> <p>24 Q. Doctor, all I've asked you</p> <p>25 was, does the mesh cause scar tissue.</p>
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<p>1 Q. Then you say, there's always</p> <p>2 some degree of associated damage to blood</p> <p>3 vessels and tissue nerve bundles leading</p> <p>4 to entrapment. These responses are not</p> <p>5 unique to mesh. What do you mean by</p> <p>6 that?</p> <p>7 A. I think precisely what I</p> <p>8 said, that the surgical procedure,</p> <p>9 itself, if the tissue has nerve bundles</p> <p>10 and, obviously, has -- unless we're</p> <p>11 dealing with tendon or similar tissue,</p> <p>12 has blood vessels and often adipose</p> <p>13 tissue, there's going to be damage to</p> <p>14 those tissues that will be affected by</p> <p>15 the healing process.</p> <p>16 Q. We touched on this earlier.</p> <p>17 Doctor, do you agree that the mesh itself</p> <p>18 can cause scar tissue?</p> <p>19 MR. SNELL: Objection to</p> <p>20 form.</p> <p>21 A. The mesh cause fibrosis. It</p> <p>22 depends on how one defines scar tissue.</p> <p>23 Q. How do you define scar</p> <p>24 tissue?</p> <p>25 A. It's not an easily defined</p>	<p>1 A. I think I've answered it.</p> <p>2 Q. Well, I don't understand</p> <p>3 your answer, Doctor.</p> <p>4 A. Well, that's different.</p> <p>5 MR. SNELL: That's not a</p> <p>6 basis for an objection.</p> <p>7 BY MR. MAZIE:</p> <p>8 Q. I don't think your answer</p> <p>9 was responsive.</p> <p>10 MR. SNELL: I think it was.</p> <p>11 Q. Let me ask you simply, does</p> <p>12 the mesh cause fibrosis?</p> <p>13 MR. SNELL: Objection tp</p> <p>14 form.</p> <p>15 A. Yes.</p> <p>16 Q. Is fibrosis different than</p> <p>17 scar tissue?</p> <p>18 A. Under certain circumstances,</p> <p>19 yes.</p> <p>20 Q. Okay. Within Linda Gross,</p> <p>21 is the fibrosis different than scar</p> <p>22 tissue?</p> <p>23 MR. SNELL: Object to form.</p> <p>24 A. It is not easily discernable</p> <p>25 whether she has a well-defined scar or</p>

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<p>1 scars versus just deposition of collagen</p> <p>2 in the tissue surrounding the mesh.</p> <p>3 Q. And if the mesh itself is</p> <p>4 the cause of the -- strike that.</p> <p>5 Mesh doesn't cause scar</p> <p>6 tissue unless there's an incision related</p> <p>7 to that, is that correct?</p> <p>8 A. No. One has to implant,</p> <p>9 imbed the mesh or implant the mesh in the</p> <p>10 site, one will develop, obviously,</p> <p>11 disruption of the surrounding tissues.</p> <p>12 Q. You say on the -- on page 5</p> <p>13 that Mrs. Gross, also, had evidence of</p> <p>14 chronic endometriosis in the uterus in</p> <p>15 the specimen, possibly indicating that</p> <p>16 she had or was susceptible to chronic</p> <p>17 inflammation in her pelvic organ. Do you</p> <p>18 see that?</p> <p>19 A. Yes.</p> <p>20 Q. Doctor, can you give an</p> <p>21 opinion within a reasonable degree of</p> <p>22 medical probability that Linda Gross was</p> <p>23 susceptible to chronic inflammation in</p> <p>24 her pelvic organs?</p> <p>25 A. All I can say within a</p>	<p>1 Q. So I want to make sure I</p> <p>2 understand this. You are not giving an</p> <p>3 opinion that Linda Gross was susceptible</p> <p>4 to chronic inflammation in her pelvic</p> <p>5 organs?</p> <p>6 MR. SNELL: Objection to</p> <p>7 form.</p> <p>8 A. Other than the inflammation</p> <p>9 she had in her uterus.</p> <p>10 Q. Doctor, you saw in the</p> <p>11 slides that there were entrapment of</p> <p>12 multiple nerves?</p> <p>13 A. Correct.</p> <p>14 Q. You can't tell us within a</p> <p>15 reasonable degree of medical probability</p> <p>16 as to how those nerves became entrapped?</p> <p>17 MR. SNELL: Objection to</p> <p>18 form.</p> <p>19 BY MR. MAZIE:</p> <p>20 Q. Correct?</p> <p>21 A. They are a response to the</p> <p>22 surgical reparative process.</p> <p>23 Q. How do you know that?</p> <p>24 A. Because they're occurring in</p> <p>25 the site of surgery.</p>
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<p>1 degree of medical probability is that she</p> <p>2 had inflammation in her pelvic organs.</p> <p>3 The -- at least involving the uterus.</p> <p>4 More than that, I can't say.</p> <p>5 Q. And what you are saying is</p> <p>6 she had endometriosis?</p> <p>7 A. No. Endometritis and</p> <p>8 endometriosis is two different things.</p> <p>9 Q. You're saying she had</p> <p>10 evidence of endometritis in her uterus?</p> <p>11 A. In the lining of the --</p> <p>12 endometrial lining of the uterus, she had</p> <p>13 inflammation.</p> <p>14 Q. You can't give an opinion</p> <p>15 within a reasonable degree of medical</p> <p>16 probability as whether or not she was</p> <p>17 susceptible to chronic inflammation in</p> <p>18 her pelvic organs outside of the uterine</p> <p>19 lining?</p> <p>20 MR. SNELL: Objection to</p> <p>21 form.</p> <p>22 A. Of the other pelvic organs</p> <p>23 that I examined, which included the</p> <p>24 cervix and the fallopian tubes, she did</p> <p>25 not have inflammation of those sites.</p>	<p>1 Q. You mean an actual area</p> <p>2 where there was incision?</p> <p>3 A. Yes. There was implanting</p> <p>4 of -- there was an incision, there was</p> <p>5 placement of mesh, there was removal of</p> <p>6 mesh. There are multiple procedures</p> <p>7 taking place in those tissues that will</p> <p>8 lead to fibrosis and surrounding of nerve</p> <p>9 tissue, nerve fibers.</p> <p>10 Q. We, also, know that the mesh</p> <p>11 can cause fibrosis as well; correct?</p> <p>12 A. Yes, but it's a natural</p> <p>13 response to any surgical procedure,</p> <p>14 whether regardless of whether you use</p> <p>15 mesh or not, that you will see nerve</p> <p>16 fibers enveloped or surrounded by fibrous</p> <p>17 tissue.</p> <p>18 Q. You can't tell us within a</p> <p>19 reasonable degree of medical probability</p> <p>20 as to whether those nerves that were</p> <p>21 entrapped were the result of the actual</p> <p>22 surgical process or whether they were the</p> <p>23 result of fibrosis due to the mesh</p> <p>24 itself?</p> <p>25 MR. SNELL: Objection to</p>

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<p>1 form.</p> <p>2 A. There's absolutely no way</p> <p>3 anyone scientifically can separate those</p> <p>4 two processes.</p> <p>5 Q. Now, you talked about the</p> <p>6 fact that you saw a neuroma. What is a</p> <p>7 neuroma?</p> <p>8 A. A neuroma, in this case, is</p> <p>9 what's called a traumatic neuroma. It is</p> <p>10 secondary to disruption or transection</p> <p>11 of nerve, and it subsequently leads to</p> <p>12 the proliferation of little nerve fibers</p> <p>13 that extend out from the end of the</p> <p>14 disrupted segment.</p> <p>15 Q. Could that neuroma have been</p> <p>16 caused by a reaction to the mesh?</p> <p>17 A. No. It's a reaction to</p> <p>18 transection. It's a surgical process.</p> <p>19 Q. How do we know that?</p> <p>20 A. Because that's how traumatic</p> <p>21 neuromas develop. They're either</p> <p>22 disrupted by trauma, external trauma or</p> <p>23 they're disrupted by iatrogenic trauma.</p> <p>24 They are not responding to the presence</p> <p>25 of surrounding mesh.</p>	<p>1 changes depending on how much mesh is in</p> <p>2 the female body?</p> <p>3 MR. SNELL: Objection to</p> <p>4 form.</p> <p>5 A. Have I studied that myself,</p> <p>6 no.</p> <p>7 Q. Are you aware of any</p> <p>8 literature that speaks to that issue?</p> <p>9 A. No.</p> <p>10 Q. Can you tell us within a</p> <p>11 reasonable degree of medical probability</p> <p>12 as to how this amount of mesh that's</p> <p>13 contained within the Prolift system will</p> <p>14 affect the female body as opposed to a</p> <p>15 smaller amount of mesh used in several</p> <p>16 sutures?</p> <p>17 MR. SNELL: Objection to</p> <p>18 form.</p> <p>19 A. It's a quantitative process.</p> <p>20 Where you have mesh, there are areas in</p> <p>21 which there is adjacent fibrosis and</p> <p>22 adjacent inflammatory response, in some</p> <p>23 areas. In other areas, there's almost</p> <p>24 none. Where you have a suture or</p> <p>25 sutures, the response is localized to the</p>
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<p>1 Q. How many neuromas did you</p> <p>2 see?</p> <p>3 A. One.</p> <p>4 Q. And is the reason that you</p> <p>5 arrive at the opinion that the neuroma</p> <p>6 was traumatic in nature due to the</p> <p>7 transection because there was no mesh</p> <p>8 next to it or adjacent to it?</p> <p>9 A. No. That's the</p> <p>10 pathophysiologic mechanism by which</p> <p>11 traumatic neuromas develop.</p> <p>12 Q. Do you have an opinion as to</p> <p>13 whether or not the mesh itself migrates</p> <p>14 within the female body?</p> <p>15 A. I do not, no. I have no</p> <p>16 opinion.</p> <p>17 Q. You say in your opinion that</p> <p>18 Mrs. Gross did not -- I'm sorry, strike</p> <p>19 that.</p> <p>20 You say that in your opinion</p> <p>21 Ms. Gross had an unremarkable response to</p> <p>22 the Ethicon mesh, is that correct?</p> <p>23 A. Correct.</p> <p>24 Q. Have you studied whether and</p> <p>25 to what extent the inflammatory response</p>	<p>1 presence of the suture. It does not</p> <p>2 spread out through the tissue.</p> <p>3 Q. Where there's mesh, such as</p> <p>4 the Prolift mesh, do you know if that</p> <p>5 inflammatory response builds on itself?</p> <p>6 A. I don't understand that</p> <p>7 question.</p> <p>8 Q. Where there's more mesh,</p> <p>9 such as the amount of mesh we have in the</p> <p>10 Prolift system, do you know if that</p> <p>11 insights a much greater multiple of</p> <p>12 inflammatory response and/or fibrosis as</p> <p>13 opposed to a smaller amount of mesh you</p> <p>14 would see in a couple of sutures?</p> <p>15 MR. SNELL: Objection to</p> <p>16 form. Go ahead.</p> <p>17 A. The response is associated</p> <p>18 with the mesh fibers themselves. It's</p> <p>19 not going -- obviously, if you have</p> <p>20 multiple fibers, just as if you had</p> <p>21 multiple sutures in a tissue you would</p> <p>22 have quantitatively more inflammation in</p> <p>23 total, but it's a question of whether the</p> <p>24 mesh fiber has elicited an inflammatory</p> <p>25 response and how much of it is elicited.</p>

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<p>1 In many areas, the mesh is not elicited, 2 a significant or, if any, inflammatory 3 response in other areas, there's more of 4 an inflammatory response. Obviously, if 5 you have more mesh, you potentially can 6 have more inflammation. 7 Q. Are you aware of any 8 literature, Doctor, that talks about the 9 multiplication effect where there's more 10 mesh? 11 A. I'm not you aware of it and 12 biologically it makes no sense. 13 Q. Have you reviewed any of 14 Linda Gross' medical records? 15 A. I reviewed some portions of 16 them. Obviously, I reviewed the 17 operative reports and the surgical 18 pathology reports. 19 Q. Do you have any opinion as 20 to whether and to what extent Linda Gross 21 suffers from chronic pain as a result of 22 the mesh? 23 A. I'm aware she's had 24 complaints of chronic pain. Whether it's 25 due to the mesh or not, I don't know.</p>	<p>1 was held off the video record:) 2 MR. MAZIE: We are here with 3 the understanding of taking the 4 deposition of Dr. Factor with 5 regard to both the Gross and the 6 Wicker case. I arrived here today 7 without prior warning. And Mr. 8 Snell told me that he was going to 9 refuse to allow the Doctor to 10 answer questions concerning the 11 Wicker case. Is that correct? 12 MR. SNELL: You're patently 13 wrong. You were told by Kelly 14 Crawford that we were not 15 producing Dr. Factor, we object to 16 producing him -- producing Dr. 17 Factor in the Wicker case that in 18 light of the fact that, A., Dr. 19 Faulk (ph) is a new expert and he 20 has not been deposed. There's a 21 motion pending on him. B, Dr. 22 Welsh has not even been deposed 23 yet on Wicker. Therefore, we did 24 not believe it would be pertinent 25 or right to produce Dr. Factor in</p>
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<p>1 Q. I'm to go through some of 2 the slides. I'm going to show you 3 Doctor, what has been marked as Factor 1, 4 which is sample CR07-8397. These are 5 slides you have seen before; correct? 6 A. Just the ones I got this 7 morning, or this afternoon. 8 Q. But the -- 9 A. I saw the slides. I saw 10 these pictures today. 11 Q. Right. But you have seen 12 these slides before? 13 A. Oh, absolutely. 14 Q. Let's turn to -- I want to 15 start with -- I guess we'll start with 16 the 13th slide. 17 A. What is the picture? 18 MR. MAZIE: Okay. Why don't 19 we change tape. 20 VIDEOGRAPHER: The time is 21 now 3:30. This is the end of Disc 22 Number 1. We are now going off 23 the record. 24 - - - 25 (Whereupon, the following</p>	<p>1 the Wicker case concerning that 2 plaintiff's experts have not even 3 been disclosed, let alone one of 4 may not be allowed to so testify 5 in the Wicker case. 6 So your representation is 7 wrong. Whether you were copied on 8 the e-mail to your partner, Adam 9 Slater, I frankly did not go back 10 and check that. 11 MR. MAZIE: I was aware you 12 were taking that position, but the 13 judge had said that you should 14 take whatever you can with regard 15 to Dr. Welsh. You were given the 16 opportunity. He was not finished 17 for whatever reason. He was 18 prepared to stay. Kelly decided 19 not to stay. And in either event, 20 the Judge said that we should go 21 ahead and take Dr. Factor on both 22 cases regardless. 23 MR. SNELL: It's my 24 understanding that was not what 25 happened, that the court reporter</p>

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<p>1 needed to leave. The Judge said 2 we should focus on Gross first, 3 that's why Kelly focused on Gross 4 first and the Judge has not said 5 that Dr. Factor should be deposed 6 on Wicker in addition to Gross as 7 we sit here today at this 8 deposition. So I think that's 9 attorney/lawyer argument, and if 10 there's a disagreement, it's 11 amongst the counsel. 12 MR. MAZIE: So we're clear, 13 to the extent you do not allow me 14 to ask questions concerning Wicker 15 and we're not getting in touch 16 with the Judge, we'll seek to move 17 to bar Dr. Factor's testimony in 18 the Wicker case. And to the 19 extent the Judge does not grant 20 that, we're going to ask that the 21 deposition take place at our 22 office at our convenience. Okay. 23 MR. SNELL: We are fine with 24 producing Dr. Factor for the 25 Wicker case. And Dr. Factor,</p>	<p>1 deposed on Wicker. But at this 2 point, he should be after Dr. 3 Welsh and after the motion is 4 decided on plaintiff's newly 5 disclosed, last minute expert on 6 the amyloidosis pertinent to the 7 Wicker case, who has refused Dr. 8 Factor's report and opines about 9 it. 10 MR. MAZIE: I want to place 11 on the record that the first time 12 amyloidosis was ever raised was by 13 Dr. Factor and we turned around 14 and produced an expert within a 15 week or less and that was, by the 16 way, close to a month ago. 17 MR. SNELL: The fact that 18 Dr. Welsh did not recognize it, I 19 cannot speak to that. 20 MR. MAZIE: Okay. It's 21 there. 22 - - - 23 (Whereupon, a discussion was 24 held off the record.) 25 - - -</p>
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<p>1 you're fine with giving a 2 deposition in the Wicker case. 3 THE WITNESS: I have no 4 problem giving a deposition, but 5 it limits the number of days that 6 you have available because I often 7 have to be here at the hospital 8 for portions of those days. 9 MR. SNELL: So we will 10 produce Dr. Factor here, and it 11 will be done -- I would like to 12 put something else on the record. 13 We offered to move the deposition 14 in toto until after Dr. Welsh was 15 deposed. And I believe Dr. Factor 16 gave a date of December 19th in 17 response to Mr. Mazie's dates that 18 he provided for potential 19 availability in December. 20 So, that was an offer that 21 we made that was rejected and 22 we've never stated our position 23 was otherwise. So, Dr. Factor -- 24 I'm more than willing to produce 25 him. He's more than willing to be</p>	<p>1 VIDEOGRAPHER: The time is 2 now 3:42. We are back on the 3 record. 4 BY MR. MAZIE: 5 Q. Doctor, I'm showing you what 6 has been, I think, considered to be slide 7 number 14, which is part of Factor 1. 8 Why don't you hold that up for the 9 camera, so we're all on the same page? 10 MR. SNELL: I think you've 11 identified it as the 13th slide. 12 MR. MAZIE: It's 13th, but 13 if you include the first page, 14 it's the 14th. 15 BY MR. MAZIE: 16 Q. Doctor, can you tell us what 17 is going on in that slide? 18 MR. SNELL: Objection to 19 form. 20 MR. MAZIE: What is the 21 objection? 22 MR. SNELL: What is going 23 on? 24 MR. MAZIE: Yes. 25 BY MR. MAZIE:</p>

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<p>1 Q. What do you see?</p> <p>2 A. There are number of fiber</p> <p>3 mesh spaces with some residual mesh</p> <p>4 material. A lot of it has been disrupted</p> <p>5 by technical artifact -- the sectioning</p> <p>6 of the tissue. There is a longitudinal</p> <p>7 vessel running obliquely across the</p> <p>8 humoids (ph). There's several small</p> <p>9 vessels off to one side, and there are</p> <p>10 inflammatory cells, including what</p> <p>11 appears to be lymphocytes and macrophages</p> <p>12 along with a few multi-nucleated giant</p> <p>13 cells.</p> <p>14 Q. Doctor, fair to say there's</p> <p>15 active chronic inflammation on this</p> <p>16 slide?</p> <p>17 MR. SNELL: Objection to</p> <p>18 form.</p> <p>19 THE WITNESS: There's</p> <p>20 inflammation. Again, there's no</p> <p>21 way to determine that this is</p> <p>22 active.</p> <p>23 BY MR. MAZIE:</p> <p>24 Q. And there's, at least, one</p> <p>25 or two giant cells?</p>	<p>1 mesh fibers were is fibrosis?</p> <p>2 A. It is around the fibers and</p> <p>3 between the fibers, yes.</p> <p>4 Q. You can't give us an opinion</p> <p>5 as to what the cause of that fibrosis is</p> <p>6 in this tissue sample from Linda Gross,</p> <p>7 correct?</p> <p>8 MR. SNELL: Objection to</p> <p>9 form.</p> <p>10 A. It's part of the process of</p> <p>11 the implantation of the mesh and the</p> <p>12 surgical ailment.</p> <p>13 Q. Can you tell whether or not</p> <p>14 the surgical fibers themselves caused the</p> <p>15 fibrosis that you see in this slide,</p> <p>16 number 15?</p> <p>17 MR. SNELL: Objection.</p> <p>18 A. There's no way to</p> <p>19 specifically ascribe the fibrosis to the</p> <p>20 mesh. In fact, in the central portion of</p> <p>21 the field, there are virtually no fibers</p> <p>22 and there's still fibrosis and fibrosis</p> <p>23 extends beyond the mesh fibers. So</p> <p>24 trying to directly relate the fibrosis to</p> <p>25 the mesh is not possible.</p>
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<p>1 A. There are several giant</p> <p>2 cells, both off -- slightly away from the</p> <p>3 fibers as well as appearing to be near</p> <p>4 the fibers.</p> <p>5 Q. There's chronic inflammation</p> <p>6 adjacent to the mesh fibers where the</p> <p>7 chronic fibers were?</p> <p>8 A. Chronic inflammation is</p> <p>9 between the mesh fibers. It's, actually,</p> <p>10 closest to the blood vessel that runs</p> <p>11 obliquely through the field.</p> <p>12 Q. Just so we're clear, there</p> <p>13 is chronic inflammation between the mesh</p> <p>14 fibers; correct?</p> <p>15 A. That's just what I said.</p> <p>16 Q. And there are, also, giant</p> <p>17 cells there?</p> <p>18 A. There's, at least, one giant</p> <p>19 cell in that particular area.</p> <p>20 Q. Let's turn to the 15th</p> <p>21 slide. Fair to say that all of the pink</p> <p>22 stuff you see on this slide is fibrosis?</p> <p>23 A. Yes.</p> <p>24 Q. And within or surrounding</p> <p>25 the mesh fibers that you see or where the</p>	<p>1 Q. You can't tell us one way or</p> <p>2 the other, correct?</p> <p>3 A. Correct.</p> <p>4 Q. Next, Number 16, do you see</p> <p>5 chronic inflammation around the mesh in</p> <p>6 the slide?</p> <p>7 A. Well, this is the same field</p> <p>8 as the higher power that we saw in the</p> <p>9 previous, the number 13 or 14, whatever</p> <p>10 that number was.</p> <p>11 Q. Can you see extensive</p> <p>12 fibrosis in this slide?</p> <p>13 A. There is fibrosis that</p> <p>14 extends around the mesh fibers and</p> <p>15 extends away from the mesh fibers. The</p> <p>16 area off to the upper right has no mesh</p> <p>17 fibers and has the same fibrosis</p> <p>18 elsewhere.</p> <p>19 Q. Let's go to the 26th slide,</p> <p>20 which looks like this.</p> <p>21 A. That's the same field as we</p> <p>22 have already discussed.</p> <p>23 Q. Okay. That's it.</p> <p>24 MR. SNELL: Why don't we</p> <p>25 call it, is it CR078 --</p>

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<p>1 THE WITNESS: They're all 2 the same, unfortunately. 3 BY MR. MAZIE: 4 Q. This shows chronic 5 inflammation, this slide? 6 A. This is the same field that 7 we saw. 8 Q. Let's go two more, number 9 28. We haven't talked about this one 10 yet, have we? 11 A. Not to my knowledge, no. 12 Q. This shows fibrosis 13 surrounding the mesh fibers? 14 A. Yes, with virtually no 15 inflammation. 16 Q. There's fibrosis surrounding 17 the mesh fibers, correct? 18 A. I just said so, yes. 19 Q. And the fibers themselves 20 here, the fibrosis is, actually, pulling 21 the fibers together; correct? 22 A. Well you -- 23 MR. SNELL: Object to form. 24 THE WITNESS: -- you can't 25 make that conclusion. There's</p>	<p>1 next one, the fourth one we're looking 2 at. It's this one. 3 A. No. It's not that one. 4 It's this one. 5 Q. Okay. And it's Number 33. 6 MR. SNELL: Let me get that. 7 What is in front of it? 8 THE WITNESS: It's the 9 same. 10 MR. MAZIE: Fourth one of 11 this series. 12 MR. SNELL: You are saying 13 this is page what? 14 MR. MAZIE: 33. 15 BY MR. MAZIE: 16 Q. Doctor, what do you see 17 there? 18 A. I see a portion of fiber. I 19 see a few inflammatory cells. I see some 20 spaces off to the upper left. 21 MR. MAZIE: I need to pick 22 this up. I'm sorry. 23 VIDEOGRAPHER: The time is 24 now 3:50. We're going off the 25 record.</p>
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<p>1 fibrosis and there are fibers, but 2 there's no way you can make a 3 conclusion, especially because 4 there's, also, artifacts in this 5 tissue that the whole -- that is 6 at 12 o'clock, there's a tear in 7 the tissue which disrupts the 8 fibrous tissue. 9 BY MR. MAZIE: 10 Q. Doctor, do you know one way 11 or the other whether the fibrosis is 12 affecting the distance between the mesh 13 fibers? 14 A. I don't know. 15 Q. Okay. Let's go to Number 16 33, which looks like that. You might 17 want to count it from the last one, which 18 is 26? 19 A. Is it this one? 20 Q. There's a number of them in 21 a row that look alike. So, let's see. 22 The first one you see of this, looks like 23 that. 24 A. Yes. 25 Q. So not that one, not the</p>	<p>1 - - - 2 (Whereupon, a brief recess 3 was taken.) 4 - - - 5 VIDEOGRAPHER: The time is 6 now 3:51. We are back on the 7 record. 8 BY MR. MAZIE: 9 Q. Doctor, you see the 10 degradation of that mesh fiber there? 11 A. I see changes associated 12 with the edge of the mesh. I can't tell 13 whether that's pre-existent degradation 14 or changes associated with the sectioning 15 because there artifacts associated with 16 the sectioning. The mesh fiber, 17 actually, can be seen in its entirety on 18 the two photographs next, which shows 19 polarization of that mesh fiber and shows 20 it intact. 21 Q. Let's go to Number 35. Do 22 you see the polarized portion -- it's all 23 polarized, but you see the colored 24 portion in the middle of the mesh fiber? 25 A. Yes.</p>

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<p>1 Q. Fair to say there's</p> <p>2 degradation of that mesh fiber?</p> <p>3 A. I don't know that's, in</p> <p>4 fact, the case. There's tearing of the</p> <p>5 tissue. There's a -- what looks like</p> <p>6 connective tissue or inflammatory tissue</p> <p>7 that's crossing that space. And I cannot</p> <p>8 tell whether that is degradation of the</p> <p>9 surface or a portion of the surface or is</p> <p>10 a disruption secondary to sections</p> <p>11 artifact.</p> <p>12 Q. Just so we're clear --</p> <p>13 VIDEOGRAPHER: The time is</p> <p>14 now 3:52o. We're going off the</p> <p>15 record.</p> <p>16 - - -</p> <p>17 (Whereupon, a brief recess</p> <p>18 was held.)</p> <p>19 - - -</p> <p>20 (Whereupon, the following</p> <p>21 discussion was held off the video</p> <p>22 record:)</p> <p>23 - - -</p> <p>24 THE COURT: Hello, Counsel.</p> <p>25 MR. SLATER: Hello, Judge.</p>	<p>1 Mazie, was -- before starting the</p> <p>2 deposition, he was informed by the</p> <p>3 defense he was not to ask any</p> <p>4 questions of Dr. Factor about the</p> <p>5 Wicker case. And we are prepared</p> <p>6 to proceed and take the deposition</p> <p>7 fully on both cases, and we think</p> <p>8 we should be permitted to fully</p> <p>9 take the deposition today.</p> <p>10 THE COURT: Is the</p> <p>11 deposition as to Gross completed?</p> <p>12 MR. MAZIE: Judge --</p> <p>13 MS. CRAWFORD: Kelly</p> <p>14 Crawford. I don't know if you're</p> <p>15 directing that at me.</p> <p>16 THE COURT: Go ahead, Kelly.</p> <p>17 MS. CRAWFORD: I'm not at</p> <p>18 the deposition, Judge, but as I</p> <p>19 understand it, Mr. Snell can</p> <p>20 confirm, they're in the middle of</p> <p>21 the Gross deposition regarding Dr.</p> <p>22 Factor at this point and it's not</p> <p>23 yet completed.</p> <p>24 MR. MAZIE: Judge, Dave</p> <p>25 Mazie. I will be done with the</p>
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<p>1 THE COURT: Hi, how are you,</p> <p>2 Adam?</p> <p>3 MR. SLATER: Fine, thanks.</p> <p>4 How are you?</p> <p>5 The COURT: Good. So we</p> <p>6 have Adam Slater on the record and</p> <p>7 Ms. Crawford.</p> <p>8 MS. CRAWFORD: Kelly</p> <p>9 Crawford.</p> <p>10 THE COURT: Okay, good. So</p> <p>11 we have a certified court reporter</p> <p>12 taking down the record?</p> <p>13 MR. MAZIE: Judge, it's Dave</p> <p>14 Mazie and Burt Snell.</p> <p>15 Unfortunately, we only have an</p> <p>16 iPhone on speaker. It is next to</p> <p>17 the court reporter, but she's</p> <p>18 going to have some difficulty. So</p> <p>19 everyone needs to keep their</p> <p>20 voices up. We're at the</p> <p>21 deposition of Dr. Factor.</p> <p>22 THE COURT: So what is the</p> <p>23 issue?</p> <p>24 MR. SLATER: The issue, your</p> <p>25 Honor, is that my partner, Dave</p>	<p>1 Gross deposition within the next</p> <p>2 20 to 30 minutes and ready to</p> <p>3 proceed and finish up with the</p> <p>4 Wicker deposition, which quite</p> <p>5 honestly, will not take more than</p> <p>6 an hour.</p> <p>7 MS. CRAWFORD: If you're</p> <p>8 prepared for defense's position,</p> <p>9 Judge, just let us know.</p> <p>10 THE COURT: Go ahead, Kelly.</p> <p>11 MS. CRAWFORD: We took Dr.</p> <p>12 Welsh's deposition. Your Honor</p> <p>13 will recall at the last case</p> <p>14 management conference this issue</p> <p>15 came up in connection with the</p> <p>16 defendant's pending motion to stay</p> <p>17 the Wicker specific case</p> <p>18 discovery. And we talked</p> <p>19 specifically at the case</p> <p>20 management conference about the</p> <p>21 fact that the pathologist --</p> <p>22 defendant's -- plaintiff's expert</p> <p>23 pathologist is going to be deposed</p> <p>24 on the 16th before the Court was</p> <p>25 going to have an opportunity to</p>

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<p>1 address that motion. And the 2 Court indicated that we should 3 start with Gross and, you know, 4 try the finish Gross and if there 5 was time available to move on to 6 Wicker. We did not start Wicker. 7 We completed Gross. But it had 8 been our position that we are not 9 prepared now prepared to produce 10 Dr. Factor and have him deposed on 11 the Wicker until we complete the 12 Welsh corresponding deposition in 13 Wicker, and that hasn't happened. 14 THE COURT: Welsh would have 15 to go before Wicker? 16 MS. CRAWFORD: Correct. 17 THE COURT: Is he before? 18 MS. CRAWFORD: That is our 19 position, Judge. We will recall 20 we had made the motion to stay 21 Wicker's specific case discovery. 22 We talked -- or I didn't talk at 23 that conference, Mary Ellen was my 24 mouthpiece because I couldn't 25 talk -- about the fact that we had</p>	<p>1 case will be ready. But we're in 2 New York and ready to take the 3 deposition of Dr. Factor, and it 4 will be done. 5 MS. CRAWFORD: Judge, I 6 don't want to get into an issue 7 about that. I started the 8 deposition on time. We took no 9 break, except for ten minutes so 10 the court reporter can quickly 11 shovel in something to eat. We 12 were there until 7 o'clock. I 13 rushed to try and finish the Gross 14 aspect of the deposition. We do 15 have a pending motion on this 16 issue. We are all spinning our 17 wheels trying to complete the 18 Gross specific discovery in order 19 to be ready for trial. And Dr. 20 Factor is willing to come back at 21 a later time after we had the 22 opportunity to take the Wicker 23 deposition from Dr. Welsh, 24 assuming that your Honor denies 25 the motion that's pending, which</p>
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<p>1 that deposition scheduled for 2 Friday and your Honor was going to 3 try to set up a call for -- 4 THE COURT: Right. 5 MS. CRAWFORD: -- the week, 6 but everything got sort of busy. 7 MR. SLATER: Your Honor, 8 it's Adam Slater. It doesn't 9 really make sense to us. Defense 10 counsel they took the deposition 11 they wanted to take. It was a 12 very long deposition and they 13 didn't finish, or they finished 14 Gross and didn't have time to do 15 the Wicker questioning. I don't 16 know how that impacts us on the 17 deposition of Dr. Factor. We just 18 want to get it done while we're 19 here. It's counsel's choice not 20 to finish. You know, it turns out 21 it seems like it was a strategy or 22 something. We don't really 23 understand why, or maybe we do 24 understand why they don't want us 25 to take Wicker discovery, so the</p>	<p>1 is still open. 2 THE COURT: Okay. 3 I have had an opportunity to 4 review the motion. I read the 5 papers on both sides. It was, I 6 think, important that both cases 7 be prepared and that they be 8 jointly prepared, but there comes 9 a practical point where it simply 10 becomes too much of a burden on 11 both sides to get ready for a case 12 that's not going to be the one 13 that's going at this point. 14 I understand Mr. Slater's 15 concern that Wicker would be the 16 back up case. And Ms. Crawford, 17 at the last conference, had 18 indicated to me that there was 19 slim and no chance of a settlement 20 offer being made to resolve the 21 Gross case prior to trial. And 22 that, unless the defendants -- the 23 plaintiffs intended to dismiss it, 24 it would be going, barring some 25 unusual event such as a death or</p>

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<p>1 an injury or something. 2 Wicker just got treatment. 3 She needs to have the examination 4 and I think it's scheduled, right? 5 MR. SLATER: That happened 6 yesterday, Judge. 7 THE COURT: So his report 8 should still issue in a timely 9 fashion. That doesn't take up 10 counsel's time, except maybe to 11 discuss it with him, but it 12 doesn't take up significant time. 13 So, his -- the defense report 14 should issue, the Wicker defense 15 report, but I'm not going to 16 require that the rest of the 17 Wicker discovery take place 18 between now and the trial. 19 If anything happens to the 20 Gross trial, we'll immediately do 21 the Wicker discovery within a week 22 or two and move on to the Wicker 23 trial, but I'm assuming that's not 24 going to be necessary. There does 25 come a point where it's now the</p>	<p>1 Judge. 2 VIDEOGRAPHER: The time is 3 now 4:03. We are back on the 4 record. 5 BY MR. MAZIE: 6 Q. Doctor, just so I'm clear, 7 you have no opinion one way or the other 8 as to whether this represents degradation 9 of the mesh? 10 MR. SNELL: Objection to 11 form. 12 BY MR. MAZIE: 13 Q. As a natural process of the 14 mesh. 15 MR. SNELL: Objection to 16 form. 17 A. It cannot be determined 18 whether the changes that are present just 19 at the edge or the end of that fiber 20 represent any degree of degradation or 21 changes associated with the technical 22 processing of the tissue. The remaining 23 portion of that fiber as seen in the 24 polarized photograph appears to be smooth 25 and unremarkable.</p>
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<p>1 end of the week, it's going to be 2 December. Trial is in January. 3 We have, you know, a holiday week 4 in there, at least, simply a 5 couple different holidays, and I'm 6 not going to require -- so I'm 7 going to grant the defense motion 8 to stop the Wicker discovery 9 pending the outcome of the Gross 10 case. 11 The only thing that I am 12 going to require is that the 13 defense independent medical exam, 14 which has been done, that that 15 report issue in a timely fashion 16 as scheduled previously. And 17 then, basically, you will have 18 some clean-up depositions to do. 19 But we can move very quickly to 20 Wicker if we needed to. All 21 right? 22 MR. MAZIE: Thank you, your 23 Honor. 24 MR. SNELL: Thanks, Judge. 25 MR. SLATER: Thank you,</p>	<p>1 Q. But you don't have an 2 opinion as to what the cause of what is 3 occurring at the end of that, whether 4 it's degradation, naturally occurring or 5 something else? 6 MR. SNELL: Objection to 7 form. 8 A. Correct. 9 Q. Let's go to slide number 51, 10 which to make it easier for you is the 11 5th from the end. Yes. 12 Fair to say that you see 13 mesh fibers here encased in or surrounded 14 by fibrosis? 15 A. I see mesh fibers with 16 fibrosis and I see fibrosis without mesh, 17 with spaces that I -- that are more 18 likely than not fat or disruption of the 19 tissue in the center and off on the far 20 right, but certainly the ones in the 21 center are not mesh, but there is fibrous 22 around it. 23 Q. You see multiple mesh fibers 24 or holes where fiber was, correct? 25 A. And there are multiple mesh</p>

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<p>1 fibers. There are a few tears in the 2 tissue above the mesh on both sides and 3 there is fibrosis around those fibers. 4 Q. As you sit here today, you 5 cannot tell us specifically what caused 6 the fibrosis surrounding these mesh 7 fibers? 8 MR. SNELL: Objection to 9 form. 10 A. I've answered the question 11 before that the fibrosis is part of the 12 surgical repair process. 13 Q. But you can't tell us 14 whether it's the actual surgery as an 15 insult to the tissue versus a cause 16 instead by the mesh fibers themselves 17 reacting with the tissue? 18 MR. SNELL: Object to form. 19 A. The fact that the fibrosis 20 is present in this field as well as in 21 many other fields without any mesh fibers 22 immediately associated with it would 23 argue that this is a process of surgical 24 repair. 25 Q. What about in the areas that</p>	<p>1 process. 2 Q. Do you see any inflammation 3 on that slide? 4 A. I described the 5 inflammation. There's macrophages and 6 there may be a few lymphocytes scattered 7 around, but the predominant cells are 8 macrophages. 9 Q. Put this grouping aside. 10 And let's go to Welsh 14, and ask you to 11 go -- these are numbered, so that will 12 make it easier. 13 MR. SNELL: Do you by chance 14 have a copy? 15 MR. MAZIE: No. 16 MR. SNELL: I'm just going 17 to look over. 18 BY MR. MAZIE: 19 Q. Doctor, go to 62. What do 20 you see there? 21 MR. SNELL: Objection to 22 form. 23 A. I see a central area which 24 appears to be -- it's not forming a true 25 granuloma, but it appears to be a</p>
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<p>1 immediately adjacent to the mesh fibers? 2 A. It's the same fibrosis. So 3 one can't -- as I pointed out earlier, 4 one can't easily discriminate between 5 fibrosis associated with repair versus 6 fibrosis associated with mesh. 7 Q. Can or can't? 8 A. Cannot. 9 Q. Let's go to the second to 10 last slide, which is number 53. I'm 11 sorry, third to the last slide. The one 12 with the hemosiderin in the middle. 13 A. Yes. 14 Q. What do you see here, 15 Doctor? 16 A. I see fibrosis, some, I 17 believe, small blood vessels cut 18 longitudinally and I see multiple 19 hemosiderin deposits and macrophage. 20 Q. Does this slide demonstrate 21 chronic injury? 22 A. It demonstrates injury with 23 chronicity because the collagen is mature 24 and the macrophages are in response to 25 the hemosiderin, so this is a chronic</p>	<p>1 granulomatis-type process with even at 2 the low power, I think spindle cells, 3 fiberglass and what happens to be 4 hemosiderin and inflammatory cells. 5 There's a space running vertically or 6 relatively vertically which appears to be 7 a blood vessel, but I'm not entirely 8 sure. Portions of it appear to be blood 9 vessel. 10 Q. Do you see in -- is there, 11 also, fibrosis? 12 A. There's fibrous tissue 13 around the central area of inflammation 14 and hemosiderin. 15 Q. Let's jump to number 70. 16 It's fair to say this slide shows chronic 17 inflammation? 18 MR. SNELL: Objection to 19 form. 20 A. It's a terrible picture and 21 it's difficult to make out, but there are 22 what appears to be giant cells, some of 23 them are multinucleated and lymphocytes 24 with, at least, some of the giant cells 25 appearing, even though it's difficult to</p>

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<p>1 make out on this exposure. It appears 2 that they have hemosiderin within them or 3 near them. 4 Q. Do you see any mesh? 5 A. No. 6 Q. The amount of inflammation 7 you see here, is that something you would 8 expect from a normal surgical process 9 without a foreign body? 10 MR. SNELL: Objection to 11 form. 12 A. If this is an area that has 13 had extensive bleeding and disruption, 14 this is a normal response. There, 15 obviously, has been bleeding because 16 there's hemosiderin throughout the 17 tissue. It's hard to make out the full 18 extent of this process from this view and 19 from the exposure. 20 Q. Let's go to the next one, 21 number 71. Can you interpret for me the 22 cluster of dark cells in the pink area? 23 A. There are -- 24 MR. SNELL: I object to the 25 form. Are you -- any particular</p>	<p>1 Q. It shows -- 2 A. Lower magnification. 3 Q. Number 73 shows chronic 4 inflammation? 5 A. Yes. 6 Q. It shows scarring? 7 A. It shows fibrous tissue, 8 yes. 9 Q. Does it show nerve? 10 A. It shows a longitudinal 11 segment of myelinated nerve. 12 Q. Is there mesh fiber shown? 13 A. There are spaces, but I 14 don't believe those are mesh spaces. 15 Q. Why not? 16 A. Because I believe they're 17 too small. I believe that's fat. 18 Q. When you say they're too 19 small, again, you don't whether or not 20 the mesh fibers themselves squeeze or 21 contract? 22 MR. SNELL: Objection. 23 A. They don't change their 24 diameter overall and all the spaces that 25 we have seen which have mesh are much</p>
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<p>1 place you're referencing? 2 MR. MAZIE: There are dark 3 cells. I think he understands 4 what I'm asking. There's an 5 accumulation of the dark cells in 6 the middle to left of the center. 7 THE WITNESS: There are 8 lymphocytes or they appear to be 9 lymphocytes. There may be 10 monocytes in there. It's hard to 11 see whether or not there are 12 macrophages, I think there are a 13 few. There are -- there's, at 14 least, one vessel, possibly 15 represents the same vessel, cut in 16 several planes, but there are 17 vessels adjacent to this cluster 18 of inflammatory cells. 19 BY MR. MAZIE: 20 Q. Let's go to 73, Doctor. 21 A. 73. 22 Q. Yes. Doctor, do you see 23 chronic inflammation on the this slides? 24 A. It's the same picture that 25 we had before. It's the same field.</p>	<p>1 large than those three spaces that we see 2 adjacent to the nerve. 3 Q. Why don't you think they 4 change their overall diameter? 5 A. Because I see no evidence of 6 it. The spaces are relatively the same 7 size or the fibers that one can see with 8 light microscopy, H&E, light microscopy 9 and with polarization show fibers that 10 are of a similar size. 11 Q. You're basing your opinion 12 on the 18 or so slides that you've looked 13 at? 14 MR. SNELL: Object to the 15 form. 16 A. Yes. 17 Q. Okay. You don't know 18 whether and to what extent the mesh 19 fibers contract because you haven't seen 20 most of the mesh fibers within Linda 21 Gross' body or pulled out of her body, 22 correct? 23 MR. SNELL: Objection to 24 form. 25 A. It's irrelevant what's been</p>

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<p>1 pulled out of her body. It's is 2 irrelevant what I haven't seen. What I 3 have seen is clear that the mesh fibers 4 show no evidence of retraction or 5 contraction. The spaces are enlarged. 6 Some are larger than one would 7 anticipate, but that is a technical 8 artifact of dragging with spaces and 9 disrupting the fibers. These spaces that 10 are off to the right, at least from this 11 view, and, obviously, this is showing the 12 whole field, I do not believe are mesh, 13 nor is there any mesh evidence with any 14 mesh fiber that I can see at this 15 magnification within those spaces. 16 Q. Doctor, you understand that 17 there is clear testimony from both sides 18 that the mesh contracts within the female 19 body? Do you know that? 20 A. Well, there's contraction of 21 scar tissue or fibrous tissue which is 22 recognized with any scar. All scars will 23 retract to some degree. Fibrous tissue, 24 and obviously when one cuts the skin, 25 gets a scar. One knows that scars</p>	<p>1 form. 2 A. Again, I don't know that -- 3 that indicates or that implies that the 4 mesh has an active process of contraction 5 independent of what is going on in its 6 implantation site and that's not the 7 case. The mesh is implanted in the 8 tissue. It elicits an inflammatory and 9 fibrous reaction and that fibrous 10 reaction retraction contracts. I have no 11 evidence that the mesh itself is an 12 active participant in that process. 13 Q. I understand that. I think 14 we're saying the same thing. So once the 15 mesh is implanted, it interacts with the 16 female tissue; correct? 17 A. Well, it interacts with the 18 fibrous tissue that's part of the healing 19 process. 20 Q. And then that fibrous tissue 21 causes the mesh itself to contract in 22 size; correct? 23 MR. SNELL: Objection. 24 A. Potentially, yes. 25 Q. Page 75, last one on this.</p>
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<p>1 retract or fibrous tissue retract. So 2 that's not unusual. It's not unique. It 3 has nothing to do specifically with the 4 mesh. Its the natural property of the 5 fibrous tissue. 6 Q. Listen my question. 7 A. I did. 8 Q. You understand that it's 9 undisputed that the mesh contracts. 10 MR. SNELL: I object to the 11 form. That's actually a 12 misrepresentation. 13 A. I don't know that that's the 14 case. It is -- since the mesh is 15 enveloped or surrounded by fibrous tissue 16 that extends through the mesh pores, the 17 process of retraction or contraction is 18 potentially only due to the fibrous 19 tissue healing. 20 Q. Either way, whether it's the 21 fibrous tissue causing the contraction or 22 the mesh itself causing the contraction, 23 you understand that the mesh once 24 implanted contracts, correct? 25 MR. SNELL: Objection to</p>	<p>1 Doctor, you see a nerve there? 2 A. There's a nerve cut across 3 by the -- whatever that disruption is in 4 the picture. But, yes, there's a nerve. 5 Q. And there's chronic 6 inflammation near the nerve? 7 A. There's chronic inflammation 8 near the nerve, but it's associated with 9 fat. 10 Q. Do you see any fibers, mesh 11 fibers? 12 A. I do not know what is off to 13 the far left. I don't believe it is, but 14 it possibly could be, but all the 15 remaining spaces are fat tissue, both 16 above the nerve and below the nerve. 17 Q. In order to have pain, is it 18 your position you have to have neuritis? 19 A. You either have to have 20 neuritis or evidence of disruption, 21 damage to the nerve fiber. Whether the 22 surrounding of nerves by fibrous tissue 23 is sufficient to produce pain is 24 unknowable. There is potential for 25 secretion of irritant materials that</p>

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<p>1 could lead to pain, but there's</p> <p>2 absolutely no way biologically to</p> <p>3 determine any one nerve or any group of</p> <p>4 nerves is the source of a particular pain</p> <p>5 when you are dealing with nerves of the</p> <p>6 size. The absence of inflammation, the</p> <p>7 absence of neuroma formation with the</p> <p>8 exception of that one that I mentioned</p> <p>9 earlier, is a normal response of nerves</p> <p>10 in tissue that is undergoing fibrosis and</p> <p>11 some degree of inflammation.</p> <p>12 Q. Just so we're clear, you</p> <p>13 can't tell one way or the other whether</p> <p>14 fibrosis is causing a nerve to cause</p> <p>15 pain?</p> <p>16 A. Nobody can.</p> <p>17 Q. Okay. All right. Put that</p> <p>18 one away. Let's see what else we have</p> <p>19 here.</p> <p>20 Number 12. Welsh 12, I will</p> <p>21 ask you to look at a couple of slides</p> <p>22 here. Number 36, which is the second</p> <p>23 slide, what do you see there?</p> <p>24 A. I see.</p> <p>25 MR. SNELL: Objection to</p>	<p>1 look at number 8, and look at number 3 on</p> <p>2 this. Do you see a nerve there?</p> <p>3 A. I do.</p> <p>4 Q. Is it normal or degenerated?</p> <p>5 A. It looks partially torn.</p> <p>6 The portion of it that appears to be</p> <p>7 unaffected off to the center towards the</p> <p>8 left appears normal. It looks like there</p> <p>9 is some disruption of the nerve possibly</p> <p>10 by a sectioning.</p> <p>11 Q. You can't tell us within a</p> <p>12 reasonable degree of medical probability</p> <p>13 as to what disrupted this nerve?</p> <p>14 MR. SNELL: Objection to</p> <p>15 form.</p> <p>16 A. Well, since only a portion</p> <p>17 of it is affected and there's no</p> <p>18 inflammation associated with it and no</p> <p>19 difference in the fibrosis that's around</p> <p>20 it, I believe it's due to the sectioning.</p> <p>21 Q. Doctor, what is around the</p> <p>22 fibrous?</p> <p>23 A. Fibrous tissue and a few</p> <p>24 inflammatory cells.</p> <p>25 Q. Is there some collagen as</p>
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<p>1 form.</p> <p>2 A. I see a nerve that's been, I</p> <p>3 assume, inked or surrounded by ink that</p> <p>4 looks to be irregular and surrounded by</p> <p>5 fibrous tissue.</p> <p>6 Q. And go to number 47, please.</p> <p>7 A. 47, you said?</p> <p>8 Q. 47. Do you see a nerve</p> <p>9 there?</p> <p>10 A. There are nerves or there</p> <p>11 is, at least, one nerve off to the right.</p> <p>12 I don't know what the tissue is in the</p> <p>13 center of the field.</p> <p>14 Q. Okay. Can you tell whether</p> <p>15 the nerve itself is degenerated?</p> <p>16 A. The nerve that I see off to</p> <p>17 the right is not. I don't know what the</p> <p>18 remaining tissue is.</p> <p>19 Q. Is the nerve itself imbedded</p> <p>20 in the fibrosis, the one you see?</p> <p>21 A. Well, there's a space around</p> <p>22 the nerve, but that's probably</p> <p>23 retraction. So, yes, the nerve is</p> <p>24 surrounded by fibrous tissue.</p> <p>25 Q. Put that one away. Let's</p>	<p>1 well?</p> <p>2 A. That's fibrous tissue.</p> <p>3 Collagen is fibrous tissue.</p> <p>4 Q. Let's go to number 4. Does</p> <p>5 this show a damaged or dying nerve</p> <p>6 surrounded by collagen?</p> <p>7 MR. SNELL: Objection to</p> <p>8 form.</p> <p>9 A. It shows a nerve. It's not</p> <p>10 damaged or dying.</p> <p>11 Q. What do you see?</p> <p>12 A. I see a nerve in three</p> <p>13 different planes, or two different</p> <p>14 planes.</p> <p>15 Q. Can you tell whether or not</p> <p>16 the nerve itself is degenerated?</p> <p>17 A. It does not look</p> <p>18 degenerated.</p> <p>19 Q. Turn to number 5. Do you</p> <p>20 see a nerve there?</p> <p>21 A. It's the same nerve, I</p> <p>22 believe.</p> <p>23 Q. And can you tell whether</p> <p>24 that nerve is degenerated?</p> <p>25 A. It wasn't degenerated on the</p>

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<p>1 high magnification, so it's not 2 degenerated on this, either. It, also, 3 shows that there's multiple technical 4 artifacts in the tissue immediately 5 around the nerve. 6 Q. Number 13, do you see the 7 nerve? 8 A. There are three nerves. 9 Q. Is there fibrous tissue 10 surrounding the nerves? 11 A. Above the nerve, there is 12 fibrous tissue and tearing. And below 13 the nerve, there is fat necrosis. 14 Q. Which nerve are you 15 referring to, the one on the right? 16 A. I'm referring to all three 17 of the nerves that run, more or less, 18 through the center of the field. 19 Q. Turn to number 14. Can you 20 identify for us the circled vessels? 21 A. Can I identify them? 22 Q. Yes. 23 A. One of them is a vessel. 24 The other -- or two of them are vessels. 25 The other are damaged by sectioning.</p>	<p>1 MR. SNELL: So the record -- 2 MR. MAZIE: I'm going to do 3 it right now. 4 BY MR. MAZIE: 5 Q. The ones you say are 6 vessels, there are three circles to the 7 right and it's the middle one? 8 A. The middle one is a vessel, 9 but even that is not appropriately cut 10 across in such a way that it can be 11 evaluated. The one to the -- 12 Q. Left? 13 A. -- to the upper left is 14 longitudinal or oblique and it, too, 15 shows smudginess of the lining, the 16 endothelium and cannot be adequately 17 assessed. 18 Q. And that drawing, just so 19 we're clear, is the upper left shaped 20 like a pickle? 21 A. Or other structures, yes. 22 Q. The surrounding tissue, 23 especially in particular in the bottom 24 left quadrant, do we see collagen and 25 fibroblast?</p>
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<p>1 They're tangential and the tissue is not 2 easily seen and, actually, even the other 3 two have the same problem. There's a 4 tangential sectioning, the two vessels 5 that I believe I can recognize in the 6 right center and upper portion. 7 Q. So the first on the upper 8 right and the one right below it? 9 A. Not the upper right. That 10 one is not -- cannot be evaluated because 11 of its tangential sectioning and 12 destruction of the tissue. 13 Q. Can you point? 14 A. This one. 15 Q. That one cannot be? 16 A. No. 17 Q. So which one -- 18 A. So this one is a vessel and 19 this one is a vessel, both of them 20 because of the smudginess of the inner 21 lining, they're not cut appropriately 22 across, so they're difficult to evaluate. 23 The other two above and below, and I'm 24 not sure what this is, and this, cannot 25 be evaluated at all.</p>	<p>1 A. I believe there is collagen 2 and there appears to be fibroblast. 3 Q. Let's go to number 15. Do 4 you see a damaged vessel there? 5 A. It's very difficult to 6 make -- I mean, I believe there's a 7 vessel in the center that's been circled. 8 Again, it's longitudinal. It's not a 9 nice cross-section. So it's difficult to 10 make sense out of it. The lower portion 11 of it is out of focus. So it's hard to 12 know what to make of this. 13 Q. Okay. Let me show you the 14 last set which is 10. Let's go to number 15 4. Is there any info -- strike that. 16 Is there any information 17 here as to the pore size in vivo? 18 MR. SNELL: Objection to 19 form. 20 A. No. One can't measure the 21 pore size in fields like this. I mean, 22 one can approximate it because the 23 individual fibers have a certain 24 diameter, but it can't be a precise 25 measurement.</p>

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<p>1 Q. Can you approximate the size 2 of those pores? 3 A. Not without a micrometer or 4 ruler, no. 5 Q. We're here at your 6 deposition. You are not, as to this 7 point, rendering any opinion on the size 8 of any of the pores? 9 MR. SNELL: Objection. 10 A. Correct. 11 Q. Next one, number 5, is it 12 fair to say that on this polarized slide, 13 the white is the mesh that's remaining 14 within this sample? 15 A. The few fibers, yes, or 16 fragments of mesh that are in the sample. 17 Q. Number 6, is that all mesh? 18 MR. SNELL: Objection to 19 form. 20 MR. MAZIE: Strike that. 21 BY MR. MAZIE: 22 Q. Do you see mesh on this? 23 A. Well, I don't 24 specifically -- I see some spaces that I 25 believe are mesh, some of the spaces</p>	<p>1 little bit off to the left and a little 2 bit off to the right. 3 Q. Is the chronic inflammation 4 adjacent to mesh fibers? 5 A. It's in the general vicinity 6 of mesh fibers, yes, but not directly 7 associated with it. 8 Q. Can you tell one way or the 9 other whether the mesh fibers incited any 10 of the chronic inflammation shown on this 11 slide? 12 A. It's part of the process of 13 fibrosis and mesh placement. I'm sure 14 the mesh has some relationship to it, but 15 it's not an obvious one. 16 Q. Do you see any lymphocytes? 17 A. I believe this micro -- this 18 power, which is a low power, the small 19 cells are more likely than not 20 lymphocytes. 21 Q. Okay. You can put that 22 away. Let me see if I have anything else 23 for you. 24 Doctor, do you have an 25 opinion as to whether or not the mesh</p>
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<p>1 appear to be tearing of the tissue. I'm 2 not quite sure what several of the other 3 spaces are. They may be vessels in here. 4 It's difficult to tell. 5 Q. Let's go to the next slide, 6 which is polarization. The white stuff, 7 is that all mesh? 8 A. Yes. 9 Q. Let's go to number 10. This 10 slides shows hemosiderin? 11 A. This slide shows hemosiderin 12 and some lymphocytes and a few 13 macrophage. 14 Q. What is shown in the lower 15 quadrant there, lower right quadrant? 16 A. Fibrous tissue. 17 Q. Is there mesh within it? 18 A. There's one space that 19 appears to be a complete mesh fibrous 20 space and another that is an incomplete 21 space. 22 Q. Let's go to number 12. Does 23 this slide show chronic inflammation? 24 A. It shows a few areas of 25 chronic inflammation in the center, a</p>	<p>1 itself migrates or moves? 2 A. I don't have an opinion. 3 MR. MAZIE: That's all I 4 have. Thank you. 5 THE WITNESS: Okay. Thank 6 you. 7 MR. SNELL: I have a couple 8 quick ones. 9 - - - 10 EXAMINATION 11 - - - 12 BY MR. SNELL: 13 Q. Did you see any evidence of 14 of degradation? 15 A. No. 16 Q. Plaintiff's counsel asked 17 you some questions about the inflammatory 18 state and chronic inflammation. Do you, 19 in general, recall those questions? 20 A. In general, yes. 21 Q. What do you consider to be 22 chronic inflammation? 23 A. Again, it comes back to what 24 I indicated before. Chronic inflammation 25 refers to a subset of inflammatory cells</p>

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<p>1 that are predominantly lymphocytes, 2 monocytes, macrophages and giant cells, 3 but there's, also, a temporal component 4 and that is, as tissue injury heals, 5 there are inflammatory cells that are 6 associated with the healing process and 7 they, then, persist in the tissue to 8 varying degrees. 9 Q. And I believe you identified 10 that Mrs. Gross had chronic inflammation 11 associated with factors other than mesh, 12 is that correct or not? 13 A. There were chronic 14 inflammatory cells in a number of 15 different areas of her tissues associated 16 with hemosiderin deposition and -- and/or 17 fat necrosis. 18 Q. Has any of the pictures that 19 plaintiffs have showed you today changed 20 any of the opinions that you submitted in 21 your written report in the Gross case? 22 A. No. 23 Q. Do you hold all those 24 opinions, including the opinions today, 25 to a reasonable degree of medical</p>	<p>1 further scarring often in areas distant 2 from mesh fibers. The entrapment of some 3 nerves and the sclerosis of blood vessels 4 was a result of surgical manipulation of 5 the tissues and cannot be linked to 6 speculative and biologically unsupported 7 effects of the mesh." 8 That's what you wrote? 9 A. Yes, I did. 10 Q. Is that your opinion today 11 as well? 12 A. It is. 13 MR. SNELL: That's all I 14 have. Thank you. 15 MR. MAZIE: Okay. 16 VIDEOGRAPHER: The time is 17 now 4:38. This is the end of disk 18 two. This completes today's 19 deposition. 20 - - - 21 (Whereupon, the videotaped 22 deposition concluded at 4:38 23 p.m.) 24 - - - 25</p>
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<p>1 certainty? 2 A. I do. 3 Q. If I asked questions about 4 the degree of inflammation and Mrs. 5 Gross' inflammatory state, beyond the -- 6 beyond what was specifically seen on 7 certain slides, will you, indeed, render 8 such opinions on the nature of her 9 inflammatory state? 10 MR. MAZIE: Objection as to 11 form. 12 A. Yes. 13 Q. In your report at page 5, 14 you state that the inflammatory 15 changes -- on the third paragraph below, 16 "the inflammatory changes were not 17 significant and they were highly 18 variable." 19 A. Yes. 20 Q. That's an opinion you hold 21 today? 22 A. Yes. 23 Q. You, also, write, "Her 24 tissues had evidence of fat necrosis and 25 hemorrhage that independently led to</p>	<p>1 C E R T I F I C A T E 2 3 I HEREBY CERTIFY that the 4 witness was duly sworn by me and that the 5 deposition is a true record of the 6 testimony given by the witness. 7 8 9 ----- 10 Margaret Peoples, RPR 11 Dated: November 27, 2012 12 13 14 15 16 17 18 19 (The foregoing certification 20 of this transcript does not apply to any 21 reproduction of the same by any means, 22 unless under the direct control and/or 23 supervision of the certifying reporter.) 24 25</p>

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<p style="text-align: right;">Page 134</p> <p>1 INSTRUCTIONS TO WITNESS</p> <p>2 Please read your deposition over</p> <p>3 carefully and make any necessary changes.</p> <p>4 You should assign a reason in the</p> <p>5 appropriate column on the errata sheet</p> <p>6 for any change made.</p> <p>7 After making any change which has</p> <p>8 been noted on the following errata sheet,</p> <p>9 along with the reason for any change,</p> <p>10 sign your name to the errata sheet and</p> <p>11 date it.</p> <p>12 You are signing it subject to the</p> <p>13 changes you have made in the errata</p> <p>14 sheet, which will be attached to the</p> <p>15 deposition. You must sign in the space</p> <p>16 provided.</p> <p>17 Return the original errata sheet</p> <p>18 to the deposing attorney within thirty</p> <p>19 (30) days of receipt of the transcript by</p> <p>20 you.</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 136</p> <p>1 ACKNOWLEDGMENT OF DEPONENT</p> <p>2 I, _____, do</p> <p>3 hereby certify that I have read the</p> <p>4 foregoing pages, 1 through 135 and that</p> <p>5 the same is a correct transcription of</p> <p>6 the answers given by me to the questions</p> <p>7 therein propounded, except for the</p> <p>8 corrections or changes in form or</p> <p>9 substance, if any, noted in the attached</p> <p>10 Errata Sheet.</p> <p>11 _____</p> <p>12 STEPHEN M. FACTOR, M.D. DATE</p> <p>13</p> <p>14 Subscribed and sworn to before me this</p> <p>15 _____day of _____,</p> <p>16 20____.</p> <p>17 My commission expires: _____</p> <p>18 _____</p> <p>19</p> <p>20</p> <p>21 Notary Public</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>																																																																																												
<p style="text-align: right;">Page 135</p> <p>1 -----</p> <p>2 E R R A T A</p> <p>3 -----</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;"></th> <th style="width: 15%;">PAGE</th> <th style="width: 15%;">LINE</th> <th style="width: 55%;">CHANGE/REASON</th> </tr> </thead> <tbody> <tr><td>4</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>5</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>6</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>7</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>8</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>9</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>10</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>11</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>12</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>13</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>14</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>15</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>16</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>17</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>18</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>19</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>20</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>21</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>22</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>23</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>24</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>25</td><td>_____</td><td>_____</td><td>_____</td></tr> </tbody> </table>		PAGE	LINE	CHANGE/REASON	4	_____	_____	_____	5	_____	_____	_____	6	_____	_____	_____	7	_____	_____	_____	8	_____	_____	_____	9	_____	_____	_____	10	_____	_____	_____	11	_____	_____	_____	12	_____	_____	_____	13	_____	_____	_____	14	_____	_____	_____	15	_____	_____	_____	16	_____	_____	_____	17	_____	_____	_____	18	_____	_____	_____	19	_____	_____	_____	20	_____	_____	_____	21	_____	_____	_____	22	_____	_____	_____	23	_____	_____	_____	24	_____	_____	_____	25	_____	_____	_____	
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